

Volume II
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UNITED STATES DISTRICT COURT
Southern District of New York

MORGAN ART FOUNDATION LIMITED,)
Plaintiff,)
-against-)
MICHAEL MCKENZIE, et. al,)
Defendants.)

ZOOM CONFERENCE DEPOSITION OF OSVALDO GONZALEZ, VOLUME II, a witness called on behalf of the Plaintiff, taken pursuant to the provisions of the Federal of Civil Procedure, before Julie B. Starr, a Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, on January 7, 2022 commencing at 9:09 a.m.

COPLEY COURT REPORTING, INC.
The Mercantile Building
71 Commercial St., Suite 700
Boston, Massachusetts 02109
Tel: 617.423.5841

1 APPEARANCES:

2 FOR THE DEFENDANT:
MARKHAM READ ZERNER, LLC
3 BY: Bridget Zerner, Esq.
One Commercial Wharf West
4 Boston, Massachusetts 02110

5 FOR THE PLAINTIFF:
6 QUINN EMANUEL URQUHART & SULLIVAN, LLP
BY: Luke Nikas, Esq.
7 Haley Banks, Esq.
51 Madison Avenue, 22nd Floor
8 New York, New York 10010

9 FOR THE ESTATE:
10 EATON PEABODY
BY: Alfred Falzone, Esq.
11 100 Middle Street
P.O. Box 15235
12 Portland, Maine 04112-5235

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EXHIBIT G - 2 7**1 PROCEEDINGS**

2 Mr. Osvaldo Gonzalez, of lawful age, being
 3 first properly and satisfactorily identified by
 4 the production of driver's license, and duly
 5 sworn by a Notary Public to tell the truth, the
 6 whole truth, and nothing but the truth, deposes
 7 and says as follows in answer to direct
 8 interrogatories by Attorney Zerner:

9 *****

09:05:40AM 10 Q. Good morning, Mr. Gonzalez.

11 A. Good morning.

12 Q. Can you state your full name on the
 13 record, please?

14 A. Osvaldo Gonzalez.

09:05:53AM 15 Q. And you understand you're under oath
 16 today?

17 A. Yes.

18 Q. And have you taken any medication or
 19 any other substance that would impact your
 20 memory or your ability to answer questions
 21 truthfully today?

22 A. No.

23 Q. Now, you previously appeared on
 24 October 1st 2021, for a deposition in this

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1 case. Do you recall that?

2 A. Yes.

3 Q. And you're appearing today again
 4 pursuant to the Court's Order compelling you to
 5 testify and answer questions that you
 6 previously did not answer correct?

7 A. Sure.

8 Q. Sorry?

9 A. I said correct.

09:06:27AM 10 Q. Thank you. What is your current
 11 address?

12 A. 37 Luquillo Beach Boulevard, Luquillo,
 13 Puerto Rico.

14 Q. What is your phone number?

09:06:57AM 15 A. 917-288-1414.

16 Q. And that's your cell phone, right?

17 A. That's it.

18 Q. Sorry?

19 A. Yes.

09:07:10AM 20 Q. That's the same cell phone number you
 21 had when you worked with Mr. McKenzie?

22 A. Yes.

23 Q. And that's the cell phone number you've
 24 used to communicate with him as well as with

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1 our office, correct?

2 A. Yes.

3 Q. Does anybody else reside with you at
 4 your home in Puerto Rico?

09:07:27AM 5 A. Yes.

6 Q. Who lives with you?

7 A. Why is that important? Is that --
 8 you're getting into my personal life here.

9 Q. Well, let me ask you --

10 A. I don't think it's a relevant question.

11 Q. I'm -- do you live with family members?

12 A. I don't want to discuss this line of
 13 conversation. I don't understand how this is

14 relevant then.

15 Q. We'll come back to this. I want to
 16 know is anyone else there in the room with you?

17 A. No, there's no one in the room.

18 Q. And are you currently employed?

19 A. I'm not.

20 Q. How do you support yourself?

21 A. I have Medicare, social security.

22 Q. Are you selling your art work right
 23 now?

24 A. Well, I'm working on it.

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1 Q. Are you selling anyone else's art work?

2 A. No. Well, I'm working on -- with
 3 somebody on some photography. I'm working with
 4 an artist here in Puerto Rico.

09:08:53AM 5 Q. On photography that you just mentioned?

6 A. Yes, he's an artist.

7 Q. Have you been represented by an
 8 attorney since August 19, 2021?

9 A. For one day, yes.

10 Q. And what's the name of that attorney?

11 A. Joel Carbonaro.

12 Q. Carbonaro?

13 A. Yeah.

14 Q. Is that C-A-R-B-O-N-A-R -- how do you
 15 spell it?

16 A. Yeah.

17 Q. Is he in New York?

18 A. Yes. He's admitted to New York.

19 Q. When did he represent Mr. McKenzie?

20 A. At the beginning of the case he wanted
 21 to sue the Estate. He wanted to sue -- he

22 wanted to sue the art dealer in --

23 THE COURT REPORTER: It's getting
 24 broken up.

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1 Q. Okay. And on the first occasion did
2 you meet in person or was it a telephone call
3 or how did you correspond?

4 A. I think I met him in person on the
5 first time.

6 Q. Where?

7 A. I don't remember.

8 Q. How were you put in contact with Mr.
9 McKeogh?

10 A. Um, Mr. Nikas gave me his number.

11 Q. When you met in person with him you
12 don't have any memory of where you were?

13 A. No.

14 Q. Did you meet at an FBI office?

15 A. No.

16 Q. Did you meet at Mr. Nikas' office?

17 A. No. No.

18 Q. Was it at the Katonah property?

19 A. It could have been at the Katonah
20 property. I'm really telling you I can't
21 remember.

22 Q. What did you discuss on that first
23 occasion that you spoke with Agent McKeogh?

24 A. I think one of the discussions that I

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1 was having was about the HOPE sculpture that I
2 had in my house and I wanted to know what they
3 wanted to do about that HOPE sculpture. Um,
4 and that's what we discussed, you know.

5 Q. Okay.

6 A. Then we also were discussing the
7 movement in the studio with regard to the art.

8 Q. Okay. We'll come back to that. Have
9 you ever been represented by Quinn Emanuel?

10 A. No.

11 Q. Have you ever been represented by Luke
12 Nikas?

13 A. No.

14 Q. Have you ever received any legal advice
15 from him?

16 A. No.

17 Q. Have you received any -- have you ever
18 been represented by Venable?

19 A. No.

20 Q. Have you received any legal advice from
21 any attorney at Venable?

22 A. No.

23 Q. Did you do anything to prepare for your
24 deposition today?

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EXHIBIT G - 4 15

1 A. No, not really.

2 Q. Did you talk about your deposition with
3 anyone in advance?

4 A. No, I didn't talk to anybody about
5 anything.

6 Q. Did you review any documents?

7 A. I did nothing. I did absolutely
8 nothing to prepare.

9 Q. Has anyone provided you documents
10 related to Mr. McKenzie since the last time we
11 were here on a deposition on October 1st 2021?

12 A. Legal documents?

13 Q. Yes, start with that; any legal
14 documents other than the ones I provided you?

15 A. No.

16 Q. You received documents from me related
17 to the filings in this case, right?

18 A. Yeah.

19 Q. You understand -- when I say "this
20 case" we're talking about the federal case
21 before the Southern District of New York
22 involving Morgan Art Foundation and Michael
23 McKenzie. Do you understand that?

24 A. Well, the papers that you sent --

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1 Q. Let me clarify. Mr. Gonzalez, you're
2 aware that there are multiple lawsuits
3 involving Mr. McKenzie?

4 A. Yes.

5 Q. Okay. I was just clarifying for the
6 record. Do you understand that right now this
7 deposition is being taken in the case captioned
8 in the Southern District of New York with
9 Morgan Art Foundation as the Plaintiff against

10 Mr. McKenzie and the Estate as Defendants. Do
11 you understand that?

12 A. Yes.

13 Q. And since your last deposition, you did
14 receive filings in this case from me?

15 A. Yes.

16 Q. Okay. Have you been provided any
17 transcripts of any testimony of any parties
18 related to Mr. McKenzie since you appeared for
19 a deposition on October 1st?

20 A. No.

21 Q. When did you start working for Mr.
22 McKenzie?

23 A. I believe -- I don't know, between
24 2019 --

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17

1 Q. And were you doing anything for work
 2 right before you came to work for Mr. McKenzie?

3 A. No, just -- I just moved back from
 4 Puerto Rico. Now I'm living in Puerto Rico

5 Q. Were you working anywhere in Puerto
 6 Rico?

7 A. No.

8 Q. And do you recall what month you were
 9 hired by Mr. McKenzie in 2019?

10 A. I don't remember.

11 Q. And for what were you hired by Mr.
 12 McKenzie?

13 A. He originally hired me to work in the
 14 sales department of American Image Art. He
 15 said that he wanted to start selling art
 16 because he knew that I had been doing art. And
 17 I know him. I've known him for years.

18 So I took the position titled President
 19 of the Sales Division, marketing of the art and
 20 I had cards printed up and that's what I did.

21 Later on I discovered that I was really
 22 a caretaker for him because he, you know, was
 23 psychologically ill. And people who would work
 24 in the studio said he had Asperger's disorder

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18

1 so I was kind of -- my job was to take care of
 2 him. I thought that was my job; to be a
 3 caretaker, to sit there and listen to the old
 4 guy, you know. And that's what I did.

5 And we tried to do sales. We did
 6 auctions. We -- we did things but he was
 7 obsessed with the case, you know. So basically
 8 that's what I did. I feel like I was his
 9 caretaker, you know.

10 Q. You've called yourself -- sorry.

11 You've called yourself Mr. McKenzie personal
 12 assistant?

13 A. Yeah.

14 Q. And what salary did you receive during
 15 the time that you worked for American Image
 16 Art?

17 A. I received \$2,500 a month.

18 Q. And were you provided free housing?

19 A. Well, I stayed in the house but the
 20 house was also a studio. The house was --

21 Q. The house -- I'm sorry. I'm having
 22 trouble hearing you, Mr. Gonzalez. We'll keep
 23 going.

24 MS. ZERNER: Ms. Starr, are you
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EXHIBIT G - 5 19

1 hearing him?

2 THE COURT REPORTER: I can hear
 3 him, but I'm straining to.

4 (A brief discussion was held off
 5 the record.)

6 CONTINUED DIRECT EXAMINATION
 7 BY MS. ZERNER:

8 Q. Mr. Gonzalez, I didn't quite catch
 9 that. Did you say that the house you were
 10 living in was also a studio? Did I hear that?

11 A. Yes, it was supposed to be a studio and
 12 an office, but don't forget; there are more
 13 offices there.

14 Q. So the house that you lived in was used
 15 as a studio and an office at the same time you
 16 lived there?

17 A. Yes. Yeah, that's the only office
 18 that's there.

19 Q. Who used it as an office?

20 A. Pardon me?

21 Q. Who was using the office space in the
 22 house that you were living in on the Katonah
 23 property?

24 A. Me, I was. I was.

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20

1 Q. Okay. And how many bedrooms did the
 2 house have?

3 A. I'm going to object to this as being
 4 irrelevant.

5 Q. Well, you have to answer the question.

6 A. Well, I'm not going to answer that
 7 question. I'm finished with the house. You
 8 want to talk about --

9 Q. I'm understanding --

10 A. -- something related to the case I'll
 11 be happy to discuss it with you.

12 Q. Mr. Gonzalez, you lived in the house
 13 and your son and daughter also lived in the
 14 house with you, correct?

15 A. I don't want to discuss my family.
 16 That's it. It's over.

17 Q. I am just trying to understand; you
 18 were provided a home on Mr. McKenzie's property
 19 while you worked there and your son and --

20 A. What does that have to do with the
 21 case?

22 Q. We have several things to talk about
 23 today. This is a relevant question. You have
 24 to answer the question. You can make your

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21

1 objections, but it's -- as I understand it, are
 2 you making an objection on behalf of yourself
 3 as an attorney?

4 A. I want to --

09:28:33AM 5 Q. Mr. Gonzalez, all I want to understand
 6 is that when you were working at American Image
 7 Art you were provided a home where you were
 8 able to live with your family and that your
 9 utilities were paid and it also had a pool,
 10 correct?

09:28:47AM 11 A. Correct.

12 Q. Okay. And you said you acted as an
 13 assistant to Mr. McKenzie, so you -- did you
 14 assist him with gathering documents together
 15 related to his lawsuit or lawsuits at times?

16 A. I dealt with everything that was there,
 17 you know. Most of that stuff he -- he had all
 18 that stuff himself. No one got near that
 19 stuff. No one knew anything. Nobody did
 20 anything. He did everything.

21 Q. Right, but at times, for instance, if
 22 our office needed a document that we were
 23 talking about, you would help, if necessary, to
 24 e-mail it to us or send it through Drop Box,

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22

1 correct?

2 A. Well, yep.

09:29:50AM 3 Q. And you participated in our privileged
 4 communications regarding cases at times, as an
 5 employee of -- excuse me -- as an employee of
 6 American Image Art?

7 A. Yes.

8 Q. Well, how was Mike to work with?

9 A. How was Mike to work with? It was a
 10 nightmare. When I say that he is mentally ill,
 11 I'm serious. He obsessed on things. I mean,
 12 he repeats them back and forth, a lot of times
 13 in a row -- um, and -- and he doesn't stop.
 14 It's just like you give him some pill that he
 15 takes and all he could do is attack, attack
 16 everybody, you know.

17 And I tried my best with him, but he --
 18 he's not -- he's not there, you know. He likes
 19 to urinate in front of women. He pees out in
 20 the front of the studio when, you know, like
 21 when Annette would be there. And you know,
 22 it's just -- what's up with that? He does
 23 stuff like that.

24 And -- and like he has this whole

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EXHIBIT G - 6 23

1 violent streak and you know, it was tough. It
 2 was very hard. It was very hard, you know.
 3 He's not an easy person. He's obese,
 4 fantastically obese. He's an anti-Semite, big
 5 time. And you know, is that enough? Would you
 6 like to hear the picture?

7 Q. Did Mr. McKenzie ever interact with
 8 your family members while they were on the
 9 Katonah property?

09:32:40AM 10 A. Yes.

11 Q. How was he towards them?

12 A. He was fine with them.

13 Q. And his behavior that you've just
 14 described, was he like that the entire time
 15 that you worked there?

16 A. Yeah.

17 Q. Do you recall this past summer in
 18 July 2021, did Mr. McKenzie announce that he
 19 was planning to close his studio and was going
 20 to transition to other work?

21 A. Um, I know I heard that, but I don't
 22 know if I heard it from him or if he sent me an
 23 e-mail.

24 Q. You recall that -- hearing that before
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24

1 you actually left American Image Art, right?

2 A. You know, I don't exactly know the
 3 timing but it was very close.

4 Q. You don't recall him saying he's
 5 planning to close his studio and that being
 6 upsetting that you were going to lose your job?

7 A. That isn't why it was upsetting. It
 8 was upsetting --

9 Q. Go ahead.

09:34:22AM 10 A. It was upsetting because he decided to
 11 shut down the business because he wanted to
 12 hide all the art. So he decided to like go
 13 criminal and -- and he didn't want to do
 14 business anymore, you know.

15 And I found that, you know, and
 16 everything else would be upsetting, you know.
 17 You know, I wasted two years waiting to do this
 18 sales thing and it was wasted, you know.

19 Q. Did you make any art sales while you
 20 worked at American Image Art?

21 A. Nope.

22 Q. Did you have any experience with
 23 selling art before you worked at American Image
 24 Art?

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1 A. No, just my own, you know, experiences,
2 you know.
3 Q. When Mr. McKenzie talked about closing
4 the business last summer for whatever the
5 reason was, you were not going to be able to
6 work at American Image Art anymore, correct?
7 A. Yeah, obviously.
8 Q. And were you going to have to move out
9 of the house on the Katonah property?
10 A. No, he offered me -- he offered to rent
11 it to me.
12 Q. That was later though, right?
13 A. Pretty much at the same time.
14 Q. So you're going to have to start paying
15 rent when you hadn't had to pay rent before?
16 A. Yes.
17 Q. And if you couldn't afford the rent
18 then you were going to have to leave, correct?
19 A. Obviously.
20 Q. And then you wouldn't have that home
21 and you wouldn't have a home for your son and
22 daughter, correct?
23 A. Correct. Well, my son is fine. My
24 daughter --

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1 Q. Right. You helped take care of her,
2 correct?
3 A. Yes.
4 Q. And she had been defendant on you
5 during those years and you had been provided
6 that home by Mr. McKenzie?
7 A. Yeah.
8 Q. Now, you and Mr. McKenzie had a blow-up
9 around August 17th; do you recall that?
10 A. Yep.
11 Q. There was a problem with gas or diesel;
12 is that accurate?
13 A. That -- the whole hard thing is it was
14 just a minor, you know, nothing in terms of why
15 I ended my relationship with him. That was the
16 least of it. I mean, this guy -- don't forget,
17 I know what he's doing. I know he's shutting
18 down his business. It wasn't until July when
19 he told me, when he said that. He was just
20 doing the pro forma thing there.
21 Once again, don't forget; I know like
22 he's talking to the lawyers about, you know,
23 the Trust. Um, he's -- he's moving all the art
24 from perfectly fine storage space because he

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EXHIBIT G - 7 27

1 doesn't want, you know, it confiscated, you
2 know.
3 And he just lost faith in the whole
4 thing and decided to -- I guess, he was going
5 to do something like break out. They started
6 moving out a lot of pieces, you know.
7 Q. And as you mentioned, you weren't going
8 to be able to work on the sales as you had
9 planned.
10 A. What --
11 Q. You know, Mr. Gonzalez, let me just
12 move on. I wanted to talk about what happened
13 on that day on August 17th 2021. Can you tell
14 me what happened? Where were you going that
15 you had to drive the vehicle?
16 A. I was taking sculptures from -- from
17 Bridge Metal to a place in Connecticut and I
18 had -- and I had to go into the Bronx and where
19 I had to go to pick up the sculptures, it was a
20 complicated parking thing and I cut my arm. I
21 really severed -- I really put a gash in my
22 arm. It was pleading.
23 And Bridge Metal put me together and
24 put a Band-Aid on it. Then I'm going up to

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1 Connecticut and I realize that he gave me the
2 bus without any gas in it. So I had to stop
3 and get gas.
4 And what happened is there, I go --
5 it's a diesel, but it wasn't like -- I was
6 trying to put diesel in it but at this
7 particular station, those -- they are only for
8 the trucks, so I couldn't get the diesel in
9 there. So I started to think maybe I wasn't
10 thinking and I put gas in it, you know. And
11 then the car -- the truck got stuck, you know,
12 on the highway.
13 Then we got towed and this, that and
14 the other thing, you know, and he told me I had
15 to pay for it and that was it.
16 Q. What sculptures were you moving?
17 A. I was moving two -- I think two,
18 24-inch HOPE sculptures.
19 Q. And when you told Mr. McKenzie what
20 happened and he told you that you have to pay
21 for it, how did he treat you?
22 A. How did he treat me?
23 Q. Yes.
24 A. He treated me poorly.

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29

1 Q. Can you describe to me the interaction.

2 A. Matter of fact, I can't. Sorry. I
3 can't recall it.

4 Q. Let me show you -- I'm going to mark --

09:42:13AM 5 MS. ZERNER: I'm going to continue,
6 and I apologize; you all let me know if you're
7 hearing the background. I have snow plows
8 going behind me. I don't know if it's picking
9 up on the Zoom.

09:42:23AM 10 I'm going to just continue marking
11 exhibits starting with Exhibit 4 since I'll
12 going back to the Exhibits 1, 2 and 3 that we
13 had marked the last time we were together with
14 Mr. Gonzalez. This next document will be
15 Exhibit 4.

16 (Text Chain was marked for
17 identification as Exhibit No. 4.)

09:42:46AM 18 MS. ZERNER: All the attorneys
19 should have them from production. If you need
20 something e-mailed to you, let me know,
21 including Mr. Falzone. I'll shoot it over to
22 everyone right now.

23 I'm going to mark this as
24 Exhibit 4.

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30

1 Q. Mr. Gonzalez, are you able to see the
2 document through your phone when you're on the
3 app?

4 A. Yeah.

09:43:43AM 5 Q. Okay. Great. Let me know if you need
6 to see anything further on the document, but
7 what I've marked as Exhibit 4 is what I
8 understand to be text messages between you and
9 Mr. McKenzie.

10 Do you -- and it has a date of
11 August 17th, which I understand to be 2021. Do
12 you see these?

13 A. Okay. Yeah, I see it.

14 Q. The first text is marked with ogcool,
09:44:07AM 15 and you use that name, correct?

16 A. Correct.

17 Q. And it says "the bus is ready. Call
18 them to arrange payment. It's \$419."

19 Do you see that?

09:44:20AM 20 A. Yeah.

21 Q. And was that the cost for this incident
22 with the truck that day?

23 A. Yes.

24 Q. And McKenzie responds "you should pay
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EXHIBIT G - 8 31

1 it. You did it". Right?

2 A. Yes.

3 Q. Did you have a telephone call with him
4 separate from this text message?

09:44:41AM 5 A. I don't know. Probably. I mean, we're
6 talking a while ago.

7 Q. I mean, do you recall did he yell at
8 you that day about this?

9 A. No, not really.

09:44:53AM 10 Q. All right. Well, you respond to him
11 here "on-the-job accident. Mike, you're
12 playing a dangerous game with me. My daughter
13 is moving with her mother. My son is moving
14 back down. My hands are no longer tied behind
15 my back."

16 Is that what you texted to him?

17 A. Yes.

09:45:08AM 18 Q. And are you saying were you -- before
19 this your hands were tied because you were
20 dependant on McKenzie for your job and the
21 house where you -- which you used to support
22 your family, right?

23 A. Well, more than -- I needed it for my
24 daughter, you know, my mentally ill daughter.

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32

1 Q. Right. She was depending on you and
2 she stayed at the house with you on Katonah?

3 A. Yes. Yes.

4 Q. And you go on and say "I have suffered
5 your marginalization, insults and I have
6 nothing here". Correct?

7 A. Uh-huh.

8 Q. And then you say, "let's part ways
9 amicably. Don't try me".

09:45:52AM 10 And is this where Mr. McKenzie is
11 talking about closing the business. And this
12 -- is this what you're referring to when you
13 said he offered you a lease to stay at the
14 house on the Katonah property?

15 A. Yeah.

09:46:09AM 16 Q. And you asked him "what will the lease
17 say".

18 A. It says it right there.

09:46:24AM 19 Q. So you were still considering staying
20 there if the terms were agreeable?

21 A. Well, it had to be -- if my son wanted
22 to stay there --

23 Q. I see.

09:46:37AM 24 A. -- and pay the rent, you know, and he
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33

1 didn't.
 2 Q. And prior to this, none of you were
 3 paying rent to live at the house in -- on the
 4 Katonah property.

0947:00AM 5 A. Who me?

6 Q. What?

7 A. Yeah, I actually -- I actually rented
 8 the house there.9 Q. You didn't pay rent every month to
 10 McKenzie.11 A. Not at this time but the time before
 12 that I did.13 Q. We're talking about 2019 to 2021, you
 14 did not pay rent, right?

0947:22AM 15 A. Right.

16 Q. And scrolling down to the full text
 17 message here on the last page of this exhibit,
 18 you say "I'm planning to move back to Puerto
 19 Rico. Oh, it wasn't a free ride. The personal
 20 insults, the stabs in the back, the disrespect,
 21 your marginalizing me and then forcing me
 22 to witness the destruction of your business
 23 must be considered payment. I absorbed the
 24 slaps in the face and all your insane talk to

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1 try to help my daughter, but I'm free now".
 2 Right?
 3 A. Correct.
 4 Q. As you mentioned you were there and had
 5 that home so you could help, in part, because
 6 your daughter was dependant on you, right?
 7 A. Right.
 8 Q. And you had to continue to depend on
 9 McKenzie, right?

0948:09AM 10 A. Well, it was part of the deal, you
 11 know, and something else is supposed to be
 12 going on, you know.13 Q. And then it was all falling apart,
 14 right?0948:43AM 15 A. No, what's going on is don't forget
 16 long before this; I'm making reference -- I
 17 understand what he's doing. I understand the
 18 phone conversations he's having with regard to
 19 the Trust, wanting to sell the business to Greg
 20 Allen. He was going to do that. I mean, I
 21 think they almost had a contract drawn up. I
 22 mean, he was going to do that and everything
 23 that he's doing is to shut down and hide
 24 everything and try to walk away, you know.

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EXHIBIT G - 9 35

1 That was a little upsetting to me that,
 2 you know, with the Foundation and the Estate,
 3 you know -- you know, I was a little offended
 4 by that.

0949:55AM 5 Q. And as you said, he was destroying the
 6 business so it was going to destroy American
 7 Image and your ability to make sales for
 8 American Image that you were planning, right;
 9 wasn't that all falling apart?

0950:08AM 10 A. Yes, exactly.

11 Q. And you were upset with Michael for
 12 that, right, with what he was doing?

13 A. Yes, I was. Yes, I was.

14 Q. And after this, you know, discussion
 15 with Mike about what happened that day and you
 16 were injured and this problem happened with the
 17 diesel, you called Markham on that day, right?

18 A. Was that the day or the next day?

19 Pretty close.

0950:28AM 20 Q. You told Markham how angry you were
 21 with McKenzie.

22 A. Yes.

23 Q. You told Markham that McKenzie was
 24 insulting and mean and belittling and you had

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1 it with him, right?

2 A. I think so.

3 Q. And didn't you ask Markham --

4 A. It sounds right.

0951:07AM 5 Q. Okay. And when you were speaking to
 6 Markham about all this, didn't you ask him if
 7 there was any money available to support you?

8 A. I don't recall that.

9 Q. You don't recall telling Markham that

0951:24AM 10 you hoped you could get financial support from
 11 the Estate or from Morgan?12 A. What -- what happened was when I went
 13 down to speak with -- to meet Luke Nikas, he
 14 asked me what I wanted and I said that I was0951:56AM 15 concerned for my daughter and that if they
 16 could help me to find her an apartment for her
 17 because I wanted to get out of -- out of
 18 Katonah as fast as possible because I'm -- I'm
 19 concerned about how crazy this guy is. And I
 20 don't get scared fast, you know.

21 Q. Right.

22 A. But he's loose and he has guns.

23 Q. I'm talking about what you said to
 24 Markham; you don't recall talking to Markham

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1 when you were very upset about Mike yelling at
 2 you and saying you had to pay for the diesel
 3 and the destruction to the truck and that you
 4 were talking about how you needed financial
 5 support because of this dispute with Mike. You
 6 don't recall saying that to Markham?

7 A. I don't recall.

8 Q. And you don't recall saying you hope
 9 you could get support from the Estate or
 10 Morgan?

11 A. I don't recall saying that.

12 Q. But at that point when you had this
 13 blow-up with Mike, and as these text messages
 14 show, it was clear that you were going to have
 15 to leave the Katonah property where you had
 16 been living?

17 A. Yeah, but I was okay with that.

18 MS. ZERNER: I'm going to mark.

19 A. Listen, I'm the one that quit.

20 Q. Before that, you were upset that you
 21 were -- as you mentioned, you had spent
 22 two years working with Mike and --

23 A. I --

24 Q. Let me finish. You had planned -- you
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1 had been working on -- you wanted to pursue
 2 sales for American Image Art. You lived in a
 3 house there that you were able to have your
 4 daughter with you and provide her support,
 5 correct?

6 A. And?

7 Q. And that was all being lost during this
 8 last summer.

9 A. I know, but when I quit the job I
 10 understand that that's all going to change. I
 11 mean -- I mean, I didn't quit thinking that,
 12 you know, I was going to stay there. You know,
 13 I knew -- I had other plans. I'm not -- I'm
 14 not a slave there. I could move, and I planned
 15 to move and I did. That's it. You know.

16 Q. But you were still upset with McKenzie
 17 at that time, right?

18 A. Yes, I was upset with him.

19 Q. And do you recall --

20 MS. ZERNER: I have another
 21 document we'll mark as Exhibit 19. Excuse me.
 22 Not 19. 5, I think. Exhibit 5.

23 (Text Message Chain was marked for
 24 identification as Exhibit No. 5.)

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EXHIBIT G - 10 39

1 (Pause.)

2 Q. I'm sharing another document, Mr.
 3 Gonzalez, that is now marked as Exhibit 5 for
 4 the deposition. Do you see this?

5 A. Uh-huh.

6 Q. Let me just -- trying to -- trying to
 7 zoom in for you.

8 (Pause.)

9 Q. Sorry. I'm on a different computer
 10 than I'm normally on today. I'm sorry. I do
 11 not see the zoom on this -- this Adobe format.

12 Can you see the --

13 A. I could before, but not now.

14 Q. All right. You see up here on this
 15 text message chain it has ogcool, right?

16 Bridget, Peggy, Tim and 617-699-4720, right?
 17 And do you see here -- can you see that
 18 the date is August 19th 2021?

19 A. Well, I can't see the document at this
 20 point.

21 Q. Oh, I went off shared screen. I
 22 apologize. Hold on a second. Can you see it
 23 now?

24 A. Yeah.

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1 Q. Can you see that date?

2 A. Yes.

3 Q. Okay. If you can take the time to read
 4 through it; do you recall sending this text
 5 message?

6 A. Yes.

7 Q. The Bridget on there is me and the
 8 other 617 number is Markham. And who is Peggy?

9 A. That's his fiance.

10 Q. McKenzie's fiance?

11 A. Yes.

12 Q. And Tim is Tim who?

13 A. Ginexi, the printer.

14 Q. Who worked at American Image Art?

15 A. Yes.

16 Q. And you state here "hi, just to let you
 17 know, I'm no longer working with Mike. I have
 18 exhausted my patience. I had to endure the
 19 torture imposed upon me for the sake of my
 20 emotionally ill daughter who lives with me.

21 She is now going to stay with her mother."

22 That's what we were talking about
 23 earlier, right?

24 A. Uh-huh.

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1 Q. And you resented that about McKenzie,
2 right; that you had to endure his torture?

3 A. Yeah.

4 Q. And you say "Mike has the idiosyncrasy
5 of telling me to go 'F' myself on top of a
6 tsunami of insults and slights, etc... Please
7 let him know that I have enough information
8 about the inner workings of his operation to
9 'bury' him."

09:59:26AM

10 What are you talking about there?

09:59:38AM

11 A. Well, all that stuff that he was doing
12 with -- with the Trust and hiding the art. You
13 know, he was -- I mean, he contacted at least
14 four different law firms and had extensive
15 conversations about creating trusts. And then
16 he was also doing contracts to sell the whole
17 business to -- to Greg Allen and then Greg
18 Allen was going to move it to a trust in Nevada
19 and somehow get it back to his son or something
20 insane like that. And it was just -- that's
21 what he's doing. You know, it's obvious what
22 he's doing.

10:00:28AM

23 Q. And just to make sure I heard you
24 correctly; in your description did you say he

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1 contacted four different law firms? Is that
2 what you said?

3 A. Yes.

4 Q. Okay. All right. And --

10:00:55AM

5 A. And -- and Las Vegas, and a law firm in
6 Las Vegas.

7 Q. And other than what you've just
8 described, were you referring to anything else?

9 A. Other than what I've just described?

10:01:20AM

10 Q. Yes. I'm just -- I want to make sure I
11 know everything you were talking about when you
12 said you have enough information --

10:01:33AM

13 A. Yeah. Yeah. Like I know -- I've been
14 following this. I know that this is what he's
15 doing. You know what I mean? I mean, I didn't
16 discover it in August. I know he had been
17 doing it. That's the conversation you're
18 having and like he -- John gave him the bad
19 news that --

10:01:56AM

20 Q. Mr. Gonzalez, if you're talking about
21 privileged conversations between our law firm
22 and McKenzie, please do not disclose those.

23 A. Well --

24 Q. Okay?

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EXHIBIT G - 11 43

1 A. He despaired having any favorable
2 decision legally when he couldn't file his
3 motions.

4 Q. So you go on to say "if there is a
5 swindler and a liar, it's him. One more attack
6 from him and I will contact Lipson and Nikas
7 and make his life and business ugly. I have
8 the goods. I could actually save the Estate.
9 I'm sure the Star of Hope and the Estate would
10 love to talk with me". Right?

11 A. Uh-huh.

12 Q. Now, what's this -- when you say one
13 more attack from him, was there another attack
14 from him after this text?

15 A. Yes. He called me and he just started
16 to like speak very negatively of me, you know,
17 one of despair, you know. So, you know he just
18 gets very abusive. I can't tell you how
19 abusive he is. He became abusive with me.

20 Q. Was he yelling at you?

21 A. He's not yelling. But it was things
22 that he said.

23 Q. He was insulting?

24 A. Yeah, he's insulting. You should hear
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1 what he says about you.

2 Q. And after -- so he called you after
3 this text message and then you followed through
4 on this threat to make his life and business
5 ugly, right?

6 A. Yes.

7 Q. Mr. Gonzalez, why did you plead The
8 Fifth before on October 1st as to your dealings
9 with McKenzie that you just described this
10 morning?

11 A. Because I have been talking to the FBI.
12 I know there's some -- there's an investigation
13 and the U.S. Attorney involved and I don't
14 know, you know, what's going on, you know.

15 So I wanted to be sure that I knew what
16 I was talking about, you know, and at the time
17 I felt that I may have had exposure. But I
18 told you that I spoke to them and I'm more
19 settled about that, so that's that.

20 Q. Okay. We're to look at another
21 document.

22 (Pause.)

23 Q. This is Exhibit 6.

(Redacted E-mail was marked for
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1 identification as Exhibit No. 6.)
 2 Q. And this is an e-mail -- this one --
 3 this copy here you'll see at the bottom has a
 4 Venable bates number. It was produced by
 5 Venable in response to a subpoena.
 6 Mr. Gonzalez, you forwarded me this
 7 week all your e-mails with Quinn Emanuel and
 8 with Venable, correct?
 9 A. Yeah.
 10 Q. And do you believe you sent me
 11 everything that shows all your e-mails with you
 12 and those two law firms since August of 2021?
 13 A. Well, you know, now that I'm looking at
 14 it, I realize that I only sent you -- well, and
 15 Luke. I just -- I didn't think this issue was
 16 related to -- yeah.
 17 Q. Okay. We have this so that's not a
 18 problem. Do you think -- did you have any
 19 other e-mails with any other attorneys now that
 20 you're thinking about it that you did not
 21 forward to me?
 22 A. No.
 23 Q. Okay. Now, this one dated August 20th
 24 2021 at 4:55 p.m., From what I see in the

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1 e-mails, this looks like the first e-mail sent
 2 to either Quinn Emanuel or Venable around this
 3 time.
 4 Did you -- can you tell me did you call
 5 anyone before you sent this e-mail as in anyone
 6 at Venable or Quinn Emanuel?
 7 A. The only person I think I called was
 8 Luke.
 9 Q. But did you call anyone at Venable or
 10 Quinn Emanuel before sending this e-mail?
 11 A. No.
 12 Q. Why did you e-mail Kevin Lipson?
 13 A. Because I met Kevin. I dealt with
 14 Kevin. I know Kevin.
 15 Q. Sorry. Just to be careful, Oz; you
 16 kind of turn the phone and sometimes your voice
 17 trails off when you add on a thought at the end
 18 of your answer. We just want to make sure that
 19 we hear everything that you have to say. Okay.
 20 A. Okay.
 21 Q. So if you can just be careful. How do
 22 you know Kevin Lipson?
 23 A. From Portland.
 24 Q. Okay. Was the first time you met Kevin

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EXHIBIT G - 12 47

1 Lipson at the mediation between litigants in
 2 Portland, Maine in November of 2019?
 3 A. Yes. Yes.
 4 Q. All right. So you decide to reach out
 5 to Mr. Lipson who you understood was still
 6 representing the Estate of Robert Indiana at
 7 this time in August of 2021?
 8 A. Yes.
 9 Q. Okay. And you say here "I can help the
 10 Estate".
 11 A. Yep.
 12 Q. What did you mean by that?
 13 A. Well, they recover a lot of art and
 14 then that would have helped them with their
 15 case if they have in the Portland court.
 16 THE COURT REPORTER: I'm sorry I
 17 didn't hear that last part.
 18 THE WITNESS: In the Portland
 19 courts.
 20 Q. Well, you were aware that the Estate
 21 was in active litigation against Mr. McKenzie
 22 that was at this point in arbitration before
 23 New York Arbitrators, correct?
 24 A. What was this?

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1 Q. Do you need me to repeat the question?
 2 A. Please.
 3 Q. At this time in August of 2021, you
 4 were aware that the Estate was in active
 5 litigation against McKenzie in an arbitration
 6 pending in New York, right?
 7 A. Yes.
 8 Q. And you were offering to help them
 9 against McKenzie.
 10 A. Well, to recover art.
 11 Q. You were going to help them with their
 12 case against McKenzie, right?
 13 A. It would have -- it would help -- it
 14 would help their case, you know, because like
 15 the case is related to what you recover and if
 16 you recover a lot of art, then that goes to how
 17 much your attorneys fees are.
 18 Q. So you were helping them defend against
 19 the Attorney General's claims that they had
 20 claimed excessive fees from the Estate for
 21 their work?
 22 A. Um, it could -- it could lead to that,
 23 you know, but that's a long way off, you know.
 24 Q. Well, you said you could help them with

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1 their case.
 2 A. That was -- the thought was it would
 3 help with the recovery. I hadn't thought about
 4 -- I hadn't thought about you know, how to
 5 execute it or I didn't take it that seriously.

10:12:35AM 6 Q. Well, you took it seriously enough to
 7 call Mr. Lipson, right?

8 A. Yeah.

9 Q. And you were offering to help the
 10 Estate recover art work from McKenzie, right?

11 A. Yes.

12 Q. Which would help them in their case
 13 against McKenzie?

14 A. Yeah.

10:13:09AM 15 Q. Did you have any phone calls with Mr.
 16 Lipson?

17 A. Um, no, I don't think so.

18 Q. And you say here "I do have concerns
 19 about my safety as I've already received a call
 20 to be careful and not get hurt."

21 What are you talking about there?

22 A. Well, I was talking about is that Mr.
 23 McKenzie articulates a lot of violence in his
 24 language, you know. He talks very, very crazy;

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1 homicides and murders and shootings that he's
 2 been involved with. Just a lot of crazy talk
 3 and he has guns. And you know, he was always
 4 saying I'm going to shoot this guy and I'm
 5 going to blow this guy up. He talks like that,
 6 you know. And um, you know, I was concerned
 7 for myself, you know.

8 Q. Did --

9 A. I didn't want -- you know.

10 Q. Did Mr. McKenzie talk like that about
 11 violence and guns since you started working
 12 with him in 2019?

13 A. Yes. Don't forget I knew him for
 14 10 years before that, so --

10:14:38AM 15 Q. So he talked like that -- excuse me.
 16 Sorry. I just want to understand. Did he talk
 17 like that the entire 10 years you knew him?

18 A. Yes.

19 Q. So are you talking --

20 A. When I was only a tenant.

21 Q. You're talking about when you were a
 22 tenant prior to -- on the first occasion prior
 23 to when you came back in 2019?

24 A. Right.

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EXHIBIT G - 13 51

1 Q. But the second time when you're working
 2 for American Image Art from 2017 to 2021, you
 3 said you heard him talking like this the whole
 4 time you worked with him, right?

10:15:21AM 5 A. Constantly.

6 Q. Did you say constantly?

7 A. Constantly. Never ending.

8 Q. Now, this e-mail to Mr. Lipson dated
 9 August 20th 2021, when you say "I've already
 10 received a call to be careful and not get
 11 hurt", what are you referring to there?

12 A. That -- I think it was Tim, the guy,
 13 the printer there, you know, a pretty heavy,
 14 muscular guy -- you know, he said you know you
 15 should be careful and not get hurt and I didn't
 16 take to that claim, you know.

17 So you know, I had that concern, you
 18 know.

19 Q. Did you say he called you and said
 20 this?

21 A. No, I was with him personally and he
 22 said it.

23 Q. Mr. Ginexi said that to you when you
 24 were with him personally at the Katonah

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1 property?

2 A. Yes.

3 Q. What was the context of the
 4 conversation?

10:16:32AM 5 A. I don't know. I guess -- I think I was
 6 walking out the door and he was behind and he
 7 was just like you know --

8 Q. Can you place in time when he --

9 A. Towards the end of the day, I think. I
 10 was leaving the studio.

11 Q. Did he say that to you on this date,
 12 August 20th?

13 A. I don't remember the date that he said
 14 it.

10:16:50AM 15 Q. Did he say that to you after you texted
 16 everyone that you weren't working with Mike
 17 anymore?

18 A. I think so, yep.

19 Q. Okay. So if that was in person, then
 20 what are you referring to in this e-mail when
 21 you say "I already received a call".

22 A. I think I'm just making reference to
 23 the conversation that I had, you know, without
 24 going into -- it was some form of

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1 communication. The form, I'm not exact, but --

2 Q. Okay. But this e-mail is referring to

3 Tim Ginexi?

4 A. Yes.

5 MS. ZERNER: If everyone is okay,

6 we'll take a break soon. Maybe in 10 minutes.

7 I'll mark the next one.

8 (E-mail was marked for

9 identification as Exhibit No. 7.)

10 Q. Do you recall, Mr. Gonzalez, after you

11 sent that e-mail on August 20th did you get any

12 response that day?

13 A. No.

14 Q. I'll show you this next one. This is

15 an e-mail that was produced, and I know, Mr.

16 Gonzalez, you forwarded it to me as well, and

17 this is the copy produced by Quinn Emanuel.

18 Can you see it on your screen?

19 A. Yes.

20 Q. So this one is an e-mail dated

21 August 23rd 2021, three days after the last

22 e-mail we looked at where you're contacting

23 Luke Nikas and it says "Luke, I'm no longer

24 working with American Image Art. I would like

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EXHIBIT G - 14 55

1 court reporter.

2 THE COURT REPORTER: Thank you.

3 (A recess was taken at 10:21 a.m.)

4 (Resumed at 10:33 a.m.)

5 CONTINUED DIRECT EXAMINATION

6 BY MS. ZERNER:

7 Q. Mr. Gonzalez, we were talking earlier

8 about Mr. McKenzie's treatment of you while you

9 worked at American Image Art from 2019 to 2021.

10 And you described how abusive -- that he was

11 abusive and he would insult you and humiliate

12 you. Is that correct?

13 A. Yes.

14 Q. Can you give me some specific examples

15 of his insults or how he humiliated you?

16 MS. ZERNER: Hold on, Mr. Gonzalez.

17 We can't hear you.

18 (Pause.)

19 THE COURT REPORTER: I'm not

20 hearing your testimony, Mr. Gonzalez.

21 MS. ZERNER: It's muffled to me

22 too.

23 (A discussion was held off the

24 record to attend to technical issues.)

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1 to talk with you. Please call me". Right?

2 You sent this?

3 A. Right. Yes. And that's because Lipson

4 didn't respond for a few days. He didn't

5 respond at all. This is dated a few days later

6 because I waited a few days to hear from Lipson

7 and I don't think he got back to me so I

8 contacted Luke.

9 Q. And why did you contact Luke?

10 A. To talk about the American Image Art.

11 Q. And to provide him information that

12 would be helpful for his client against Mr.

13 McKenzie?

14 A. Um, if that's what it ended up being.

15 I wasn't -- I'm not a lawyer. I'm not like

16 presenting the case. I'm just letting him

17 know.

18 Q. Right. You were letting him know

19 though because he was an adversary of Mr.

20 McKenzie?

21 A. Yes.

22 MS. ZERNER: I think now -- I know

23 we've been going almost an hour and a half. We

24 can take a break for everyone, particularly our

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1 CONTINUED DIRECT EXAMINATION

2 BY MS. ZERNER:

3 Q. I had asked if you can give me some

4 specific examples of his insults or how he

5 humiliated you.

6 A. We were sitting at the kitchen table,

7 myself and Mike, and I said to him you're

8 burning down this business. You're destroying

9 everything the way you're acting.

10 And he lost his mind and jumped over

11 the table screaming --

12 Q. I am sorry. I didn't hear what you

13 said after -- I think what you first said was

14 this happened a few months ago. Was that the

15 first thing you said?

16 A. Yes.

17 Q. And that you were sitting with McKenzie

18 and what I heard you say was that you said to

19 him you're burning down this business. You're

20 destroying everything. And I couldn't hear

21 after that.

22 A. He started screaming at me to go fuck

23 myself and over and over, non-stop. It was

24 like crazy, right. And you know, it kind of

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1 broke up a little bit. I'm trying to tell him
 2 that everything that he was doing was just
 3 nuts; just nuts, you know.

4 Q. Go ahead.

10:38:41AM 5 A. So the law firm for the Star of Hope
 6 hired --

7 Q. Are you referring to the law firm that
 8 represented the Star of Hope?

9 A. Correct.

10:39:39AM 10 Q. Are you talking about Don Zuretski?

11 A. Don Zuretski. It's really -- I'll try
 12 to speak louder.

13 Q. What happened with Don Zuretski?

10:40:05AM 14 A. So that day he called Don Zuretski to
 15 figure out a production plan that they could
 16 work on. And what happens is that Mike got on
 17 the phone with Mr. Zuretski for 40 minutes and
 18 did nothing but rant at Mr. Zuretski about the
 19 lawsuits. He's nuts. He's nuts. And he said
 20 that that's not going to work out. I said what
 21 did you discuss with him and he said we didn't
 22 discuss anything.

23 THE COURT REPORTER: I'm really
 24 struggling to hear you.

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1 THE WITNESS: I'm fading. Let me
 2 try -- so what was the question?

3 THE COURT REPORTER: What happened
 4 with Don Zuretski.

10:41:45AM 5 A. So he went off on Don Zuretski and Don
 6 Zuretski told the Star of Hope not to do
 7 business with him.

8 Q. I'm trying to -- if you could hold on
 9 for one moment. I was trying to get at
 10 examples where Mr. McKenzie insulted you or
 11 humiliated you or abused you, and you mentioned
 12 the call with Mr. Zuretski.

13 Did you then discuss that with Mr.
 14 McKenzie where he mistreated you thereafter or
 15 was that leading to something between --

16 A. No. No. The fact that he did that
 17 with Zuretski was the insult to me.

18 Q. Okay.

19 A. Because I'm trying to create a business
 20 to sell art and when you do that, you kill the
 21 business.

22 Q. You had been working for American Image
 23 Art for two years and you say you were trying
 24 to develop a sales business, right?

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EXHIBIT G - 15 59

1 A. We tried -- we tried things and they
 2 didn't work and he didn't want to do it.

3 Q. And --

4 A. The price was so low. The price was so
 5 low that you could -- whatever was going on, he
 6 preferred to hold onto the art rather than sell
 7 it. The market was low on the Robert Indiana,
 8 so you hold it if you don't need the money,
 9 right?

10:43:19AM 10 Q. And can you -- do any other examples
 11 stand out to you from when you first started
 12 working with McKenzie in 2019 until you left
 13 where he really insulted you or humiliated you?

10:43:45AM 14 A. Look, the guy is just insulting. It
 15 isn't me. It's everybody. Everybody gets it.
 16 And that's just the way it is. You know?

10:44:03AM 17 Q. Let me ask, would you -- would McKenzie
 18 say offensive things about you in front of the
 19 other employees?

10:44:27AM 20 A. I -- he says bad things about everybody
 21 to everybody about everybody.

22 Q. So why did you work for him for
 23 two years in that kind of environment?

24 A. For my daughter.

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1 Q. Yeah. Did you resent McKenzie for
 2 that? You resented him that for, right; that
 3 you had to endure this kind of treatment so you
 4 could support yourself and your daughter?

10:45:02AM 5 A. Did I resent it, yeah. I resented it.

6 Q. Okay. So let me show you -- I know we
 7 were talking about when you contacted Mr. Nikas
 8 via e-mail on August 23rd. I'll mark another
 9 e-mail chain.

10 (E-mail chain was marked for
 11 identification as Exhibit No. 8.)

12 MS. ZERNER: This will be
 13 Exhibit 8.

14 THE COURT REPORTER: Yes,
 15 Exhibit 8.

16 MS. ZERNER: Thank you.

17 Q. Have we lost Oz? Oz, are you still
 18 with us?

19 A. Yes.

20 Q. Okay. Thanks. Can you see this
 21 document on the screen?

22 A. Yep.

23 Q. Okay. This is an e-mail chain and I'll
 24 scroll through it to the earliest message and

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1 then we'll -- so on this chain we have that
 2 first message that we looked at before. It's
 3 the August 23rd 2021 e-mail that you sent to
 4 Mr. Nikas.

10:46:52AM 5 A. Right.

6 Q. And then it looks like he responds that
 7 same morning on August 23rd and says "I will
 8 call you shortly", right?

9 A. Uh-huh.

10 10:47:06AM Q. Did he call you then?

11 A. Yeah.

12 Q. And what did you discuss on that first
 13 call?

14 A. About the art that was being hidden.

10:47:28AM 15 Q. You were telling him that Mr. McKenzie
 16 was hiding art?

17 A. Yes.

18 Q. And what do you recall that you said
 19 during that conversation?

10:47:41AM 20 A. He's hiding art.

21 Q. Okay. Did you discuss anything else?

22 A. There were other things -- I'm
 23 thinking.

24 Q. Okay.

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1 A. Oh, we discussed that the Trust.
 2 Q. Did you discuss Greg Allen?
 3 A. Yes.
 4 Q. Do you recall anything else you told
 5 10:48:30AM Mr. Nikas on that first call?
 6 A. About the Trust, trying to create the
 7 Trust in Nevada.
 8 Q. Anything else?
 9 A. That's about it.
 10 Q. And what did Mr. Nikas say to you?
 11 A. Nothing. I said it to him. He took it
 12 under advisement, you know.
 13 Q. Did he tell you to do anything at that
 14 point?
 10:49:02AM 15 A. I think he suggested I might contact
 16 Mr. McKeogh, the FBI agent.
 17 Q. He suggested that on the first call?
 18 A. Either on the first call or the second
 19 call, but pretty much right away.
 20 Q. He suggested talking to the FBI about
 21 the movement of art work and hiding art work?
 22 A. Yeah. Yeah. He said, you know, there
 23 were agents assigned.
 24 Q. Say that again.

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EXHIBIT G - 16 63

1 A. I said there were agents assigned. You
 2 know, somebody was assigned. It was not
 3 someone from out of blue. They already had
 4 someone assigned.

10:49:53AM 5 Q. You're saying to your understanding
 6 there was --

7 A. It was an ongoing investigation.

8 Q. You're saying to your understanding
 9 there was already FBI agents assigned to
 10 10:50:04AM investigate McKenzie and American Image Art
 11 before you called Mr. Nikas?

12 A. Absolutely.

13 Q. And how -- how did you come to that
 14 understanding?

15 A. In conversations I had with the FBI
 16 agent.

17 Q. Well, in that first call or second call
 18 did Mr. Nikas tell you that FBI agents were
 19 already assigned to investigate McKenzie?

10:50:18AM 20 A. Yeah, because he knew -- he knew the
 21 FBI agent, so he had to know what was going on,
 22 you know.

23 Q. And Mr. Nikas referred you specifically
 24 to Christopher McKeogh?

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1 A. Yes.
 2 Q. And in speaking with the agent
 3 thereafter, you understood -- I just want to
 4 make sure I'm clear -- were you assuming or
 5 10:51:21AM were you told that they were already
 6 investigating Mr. McKenzie before you reported
 7 that there was hiding of art work?
 8 A. Well, the thing that caught my
 9 attention about that was that I mentioned to
 10 10:51:53AM the agent Greg Allen and he told me that he
 11 already knew who Greg Allen was.
 12 Q. Okay. Okay.
 13 A. So he kind of gave it away there, you
 14 know. But I don't think that's a secret, you
 15 know.
 16 Q. And -- all right. So on this e-mail
 17 chain after you reached out to Mr. Nikas on the
 18 23rd and he responded and called you two days
 19 later on August 25th it shows, you e-mailed Mr.
 20 10:52:21AM Nikas again saying "I received an e-mail this
 21 morning from Mr. McKenzie requesting the
 22 18-inch solid aluminum HOPE sculpture. What
 23 should I do". Right?
 24 A. Right.

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1 Q. Why are you telling Mr. Nikas about
2 this HOPE sculpture?
3 A. Because the people who represent -- um,
4 I was just concerned about the safety of it,
5 you know. That thing was ready to be gone, you
6 know.
7 Q. What do you mean?
8 A. I think they were going to move it out,
9 you know.
10 Q. Who was going to move it out?
11 A. Oh, McKenzie moved it from the studio
12 to my house.
13 Q. When did he do that?
14 A. July or somewhere in there, before the
15 inspection.
16 Q. And did he say anything to you about
17 that sculpture being placed in your house?
18 A. Yeah, that he wanted to put it there,
19 You know, because he didn't want -- it could
20 come up in the inspection.
21 Q. He explicitly said to you he was
22 putting it in your house to hide it from the
23 inspection?
24 A. Yes.

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1 Q. And so you took it into the house?
2 A. He took it into the house.
3 Q. But it was put in your house where you
4 were living, right?
5 A. Yes.
6 Q. And you didn't object to that?
7 A. No.
8 Q. And so you had told Mr. Nikas about
9 that sculpture in your private conversation
10 before this August 25th e-mail?
11 A. I think so.
12 Q. And then you say "by the way, they are
13 silk screening hundreds of Four Seasons HOPE
14 prints on canvass, plus stamping smaller HOPE
15 silk screens with Vinalhaven stencils". Right?
16 A. Yes.
17 Q. Why did you tell him about that?
18 A. Because there's a whole thing going on
19 there, you know, outside of the contract, you
20 know; the whole criminal enterprise there, you
21 know.
22 Q. Outside of what contract?
23 A. Of what contract is he working under
24 for these HOPE silk screens today. Who's going

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EXHIBIT G - 17 67

1 to sign them?
2 Q. What did you say?
3 A. Who owns them? Who is going to sign
4 them? Who owns them? They don't -- the Star
5 of Hope; they don't want a piece of it.
6 Q. The Star of Hope owns a piece of what?
7 A. Of the sculptures.
8 Q. What sculptures?
9 A. The sculptures that was in my house.
10 Q. Okay. And what about the Four Seasons
11 HOPE prints; you said just now that they were
12 outside of a contract?
13 A. I don't know. Show me what contract he
14 has that -- but they ended his contract.
15 Q. Who is "they"?
16 A. The Estate.
17 Q. But Mr. Nikas, you knew, works for and
18 worked for at this point, Morgan. He doesn't
19 represent the Estate.
20 A. Right. Well, I don't know about that,
21 you know. I mean, you want to talk to -- it's
22 going to be hard enough to talk to Luke. I
23 mean, they ironed all that out.
24 Q. So I'm just trying to understand why

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1 you thought it was significant to tell Mr.
2 Nikas that they are silk screening hundreds of
3 Four Seasons HOPE prints on canvass at American
4 Image Art. Why did you report that and say
5 "please advise"?
6 A. Because I knew that that would be
7 helpful to his case.
8 Q. And why did you think it would be
9 helpful?
10 A. Well, I guess what the thing is that if
11 the Court finds that he willfully um, disobeyed
12 her Order, then they would make a motion to
13 have the case dismissed as a sanction. And
14 that's. That's it.
15 Q. And you're talking about the -- a Court
16 Order in the Southern District of New York
17 case, right?
18 A. Yes.
19 Q. So it looks like you sent this e-mail
20 on August 25th in the morning, 8:55 a.m. And
21 then there's an e-mail back from Mr. Nikas on
22 the next day, August 26th, that says "Oz, I
23 will be getting back to you very soon with the
24 next steps I believe are appropriate to ensure

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1 this is handled appropriately, consistent with
 2 the ethical rules and with everyone's interests
 3 protected. Thanks very much for your
 4 patience."

10:59:43AM

5 Do you recall did you speak to Mr.

6 Nikas in between your e-mail and his e-mail?

7 A. I don't remember that.

8 Q. And then scrolling up through this
 9 chain, again on August 26th later on that day,
 10 you sent this image. What is this a picture of
 11 here on this -- this has the bates QE 12.

11:00:07AM

12 A. What this is is, as you scroll up, this
 13 is a background for a HOPE Four Seasons. What
 14 I want you to do is scroll up a little more.

11:00:36AM

15 Up. Up. The way you were going, this way.

16 I want -- I want to see the bottom.

17 What I'm showing here is how many there are;
 18 how many of those silk screens are there.

19 Q. Yes.

11:00:51AM

20 A. There's hundreds, you know. Tim would
 21 sign them.

22 Q. Had you seen Four Seasons HOPE prints
 23 produced at American Image prior to
 24 August 2021?

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1 A. Yeah. Yeah, that's all they were
 2 doing. They did that for a very long time.
 3 They're still doing it.

11:01:48AM

4 Q. And you didn't bring this up as a
 5 problem before this date, right?

6 A. Well, there is no problem with it, you
 7 know, technically, you know. It's not signed.
 8 It's nothing, but --

11:02:14AM

9 Q. So there wasn't a problem with printing
 10 these HOPE prints?

11 A. No. No.

12 Q. But you were letting Mr. Nikas know so
 13 he could use that information to his advantage?

11:02:32AM

14 A. Well, I was just trying to alleviate
 15 the problem. My motivation wasn't to -- it was
 16 -- I wanted to help Mr. Nikas with his case,
 17 you know. I wanted to, you know, let the
 18 parties know what was going on. I tried to
 19 contact both of them.

11:02:52AM

20 Q. I'm just confused. Now you're saying
 21 there was a problem when I thought you just
 22 said there wasn't a problem. So what is the --
 23 was there a problem with these Four Seasons
 24 HOPEs being printed to your view?

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EXHIBIT G - 18 71

1 A. I guess there would be, yeah. It
 2 depends when you sign them. How are you going
 3 to sign them? He's dead so you're going to use
 4 stencils, right. That's what I'm saying; they
 5 would be stencils.

6 The stencil has to correspond to the
 7 date of the contract, you know. You can't just
 8 be changing the stencils from year to year
 9 depending on what you're calling it that day,
 10 you know.

11 Q. So in your opinion, the problem wasn't
 12 that HOPE prints were being made; the problem
 13 was the stencil and date being used?

14 A. Yeah, because then Tim, who is the
 15 printer, refused to stencil them because he
 16 didn't want to create the concern that they
 17 were forgeries.

18 Q. Did Mr. Ginexi say that to you?

19 A. Yes. Yes.

20 Q. When?

21 A. A number of times. He was always
 22 working on them. He told me like as soon as he
 23 possibly could, different colors and this and
 24 that. And you know, he said at some point we

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1 were -- they were going to stencil them, you
 2 know, and then he got Annette to do the
 3 stenciling of the small ones, but they were
 4 cutting the stencils from the big ones too.

5 Q. And you said that Mr. Tim Ginexi
 6 expressed to you a number of times that he had
 7 concerns that forgeries were being made at
 8 American Image Art, right?

9 A. Who?

10 Q. I'm just trying to confirm that you're
 11 testifying that Mr. Ginexi said on a number of
 12 occasions that he had concerns that forgeries
 13 of Indiana art work were being made at American
 14 Image Art?

15 A. Who is Mr. Ginexi?

16 Q. Tim. Tim Ginexi.

17 A. Oh, Ginexi. Yes. Yes.

18 Q. Okay. Did he express those concerns to
 19 you in 2019?

20 A. Yes, he did. He was very -- very
 21 careful about that. He was very careful. He
 22 was concerned.

23 Q. And he expressed those concerns to you
 24 repeatedly in 2020?

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1 A. Yeah. I mean, it wasn't like an every
 2 day thing, but you know, a couple times.
 3 Because Mike was trying to get Annette to stamp
 4 the small one and she didn't do it for a year,
 5 you know.

11:06:01AM 6 Finally, he corralled her there and he
 7 got her to start doing it, you know. Because
 8 he said he was going to start doing it. He saw
 9 he could do it and he could shoot them all out,
 10 you know.

11 Q. So it's your testimony that Mr. Ginexi
 12 on multiple occasions expressed to you that he
 13 thought forgeries of Indiana art work were
 14 being made at American Image Art since you
 15 started working here in 2019?

16 A. No. No. That isn't what I'm saying.
 17 That's not what I'm saying. I'll tell you what
 18 I'm saying.

19 Q. Please do.

20 A. I'm saying that Mr. Ginexi expressed to
 21 me concern about putting the stencil stamps on
 22 the works of Robert Indiana he was working on.

23 He expressed that to me on several
 24 occasions or time periods.

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1 Every time -- somehow that happened to
 2 happen. He would tell Mike, you know, I'm not
 3 going to do it. You know, so try to figure
 4 that out.

11:07:26AM 5 Q. This happened on occasions since you
 6 started working there in 2019 until you
 7 stopped; is what you're saying?

8 A. Yeah.

9 Q. I'm just trying to confirm that you're
 10 saying this occurred prior to these events in
 11 the summer of 2021.

12 A. Oh, yeah. Yeah. You could see --
 13 that's the whole thing. You see, the whole
 14 thing with the art the signing, you know.

11:07:55AM 15 Q. Okay. Then you brought it to Mr. Nikas
 16 as we saw here in the e-mails in August, right?

17 A. Right.

18 Q. Did you ever send text messages to
 19 either Attorney Nikas or any attorney at Quinn
 20 Emanuel or Venable?

21 A. Text messages?

22 Q. Yes.

23 A. I don't know. I know that Ed Boyle
 24 gave me his phone number and told me to text

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EXHIBIT G - 19 75

1 him before we met.

2 Q. Would you be able to check your cell
 3 phone when we go on a break?

4 A. I'm sure I didn't text anybody at those
 5 firms.

6 Q. Okay. You say you're sure that you --

7 A. I don't -- I didn't even speak to him,
 8 never mind text him.

9 Q. Are you talking about Ed Boyle right
 10 now?

11 A. And everybody else. I didn't text any
 12 of them.

13 Q. And Mr. -- Oz, you have the phone
 14 turned upward towards the -- you're still there
 15 with us, right?

16 A. Okay. There.

17 Q. I'm going to show you another document.
 18 All right?

19 A. Okay.

20 Q. Do you see this e-mail?

21 A. Yeah.

22 MS. ZERNER: We're marking this as
 23 Exhibit 9.

24 (E-mail was marked for

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1 identification as Exhibit No. 9.)

2 THE COURT REPORTER: No. 9.

3 MS. ZERNER: Thank you.

4 Q. Here's an e-mail on August 26, 2021 to
 11:10:42AM 5 you from Mr. Nikas, right? Do you recall --
 6 you can read through it. Do you recall
 7 receiving this?

8 A. Yes.

9 Q. Now, it appears that this is later in

11:10:59AM 10 the day after you were -- after you sent the
 11 images of the Four Seasons HOPE that we were
 12 just talking about.

13 And Mr. Nikas says "I am evaluating the
 14 appropriate way to move forward as I indicated
 15 earlier, but understand based on what you told
 16 me, that this is time-sensitive given your

17 concerns about safety. Can I please have you
 18 speak with the FBI in NYC about McKenzie to see
 19 if they can provide the protection you and your
 20 family may need right away. I can put you in
 21 touch with an agent that I have dealt with many

22 times before and, I believe, would be willing
 23 to speak with you promptly."

24 Do you see that?

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1 A. Yes.
 2 Q. Does -- was it after this e-mail that
 3 you spoke with the agent that you've talked
 4 about already?
 11:11:56AM 5 A. Yes.
 6 Q. And when you spoke to the agent, you
 7 said you spoke to the agent about the sculpture
 8 in the house you were living in and the
 9 movement of art work, right?
 11:12:12AM 10 A. Right.
 11 Q. And you talked about Greg Allen and the
 12 Trust that you have been referring to right?
 13 A. Right. He seemed to know it well.
 14 Q. And did the FBI offer to protect you as
 11:12:32AM 15 a witness?
 16 A. Well, the FBI told me that if he should
 17 try to shoot me or I got wounded, that I should
 18 call 911. I said thank you. That was the
 19 extent of the help that they offered me, so --
 11:13:02AM 20 Q. Okay. And you were going to talk to
 21 the FBI about this concern about McKenzie
 22 hiding art work or forging art work, right?
 23 You weren't talking to the FBI solely for
 24 personal protection, right?

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1 A. No. No. No.
 2 Q. No, you weren't talking to them -- just
 3 trying to clarify. I guess it was a compound
 4 question.
 11:13:31AM 5 You didn't go to the FBI to talk
 6 specifically about safety and protection,
 7 right?
 8 A. No.
 9 Q. You went to them to talk about McKenzie
 11:13:39AM 10 allegedly hiding art work or wrongfully selling
 11 art work or forging art work, right?
 12 A. Whatever, yes.
 13 Q. As was -- and Mr. Nikas set you up with
 14 the FBI agent to discuss that?
 11:13:55AM 15 A. Yes.
 16 Q. And again, I am just wondering if in
 17 the time since I first asked you, if you recall
 18 where you met with the FBI agent on the first
 19 occasion.
 11:14:07AM 20 A. I can't remember. Unless we had a long
 21 telephone conversation, you know, I don't
 22 remember.
 23 Q. Okay. And you said -- did you meet
 24 with the agent a second time in person?

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EXHIBIT G - 20

1 A. I know I spoke to him but I don't think
 2 so, no.
 3 Q. Okay. So you might have only met in
 4 person once?
 11:14:31AM 5 A. Yeah.
 6 Q. I didn't hear you.
 7 A. Yes.
 8 Q. And then you had phone conversations
 9 with the agent as well?
 11:14:42AM 10 A. I had conversations with the agent,
 11 yeah.
 12 Q. And can you tell me how many
 13 conversations -- how many times you spoke with
 14 the agent?
 11:14:54AM 15 A. Well, I spoke to him -- the last time I
 16 spoke to him was that McKenzie called the
 17 police on me and said that I was taking, you
 18 know, photographs in violating the tenants, you
 19 know, privacy and etc...etc...etc...
 11:15:17AM 20 You know, what I was doing really was
 21 taking pictures. I was taking pictures, but I
 22 was taking those pictures to send them to Mr.
 23 McKeogh down at the FBI who asked me for them.
 24 Q. Okay. So while you were still living

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1 at the Katonah property, you started going
 2 around and taking photographs of -- what were
 3 you taking photographs of for the FBI agent?
 4 A. Well, at first I thought they were
 5 moving more art, you know. And then -- then
 6 the next thing they did was that they sealed up
 7 all the windows in the studio so you couldn't
 8 see in.
 9 Q. Who sealed up the windows?
 11:15:53AM 10 A. McKenzie.
 11 Q. Did you see him doing that?
 12 A. I saw them sealed up.
 13 Q. And was that before or after you were
 14 going around taking pictures and they called
 15 the police?
 11:16:15AM 16 A. That was after.
 17 Q. Okay. So what did the FBI agent ask
 18 you to take photographs of at the Katonah
 19 property?
 11:16:35AM 20 A. Well, he wanted -- first he wanted the
 21 photographs that I had already sent them, you
 22 know. I had a whole group of photographs that
 23 I had. You know, I sent those and maybe a
 24 couple other things and the sculpture. That's

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1 what I sent.

2 Q. So we saw you were taking pictures of

3 the Four Seasons HOPE prints, right?

4 A. Right.

11:17:17AM 5 Q. And you took pictures of art work that

6 was put in the back of Annette Vassecchio's

7 car?

8 A. Yes.

9 Q. And you took pictures of -- is it a bus

10 -- where art work was put in the back of a bus

11 to move to the other storage facility?

12 A. Yes.

13 Q. And you took pictures of other Indiana

14 art work at American Image Art?

11:17:45AM 15 A. Yes.

16 Q. And you produced all those to the FBI?

17 A. Yes.

18 Q. Did you e-mail them to the FBI?

19 A. Let me see what I did. They had some

11:18:05AM 20 crazy thing with them that you can't send -- I

21 think I e-mailed them. They don't use Drop

22 Box, you know.

23 Q. Right. They had a secure portal that

24 you had to use?

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1 A. Yeah. Yeah.

2 Q. Okay. Did you produce to the FBI all

3 the same photos that you gave to Quinn Emanuel?

4 A. I'm sure, yeah.

11:18:34AM 5 Q. All right. And then so you provided

6 the photos that you had already taken on your

7 own. Then we were talking about that you were

8 walking around the property to take more

9 photos, right?

10 A. Right.

11 Q. Did the FBI agent ask you to take more

12 photos or what were you doing?

13 A. He didn't specifically say go take more

14 photographs, but from his reaction to the

11:19:04AM 15 original photographs that I offered to him, he

16 seemed enthusiastic about getting photographs,

17 you know, so I went after that.

18 Q. Okay. And so when you were walking

19 around taking photographs -- when you were

20 walking around the property on the day -- I'm

21 talking about the day that the police were

22 called -- what were you doing?

23 A. Tim and Michael were at his house where

24 the storage stuff is and they were -- they were

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EXHIBIT G - 21

1 putting stuff into the bus, art into the bus.

2 And I was trying to take a picture of that.

3 Q. Okay. And were you standing next to

4 another tenant's house?

11:20:12AM 5 A. It's a common driveway. It's a common

6 driveway and I was in the driveway.

7 Q. You were in the driveway near another

8 tenant's house?

9 A. Yeah, it's also my driveway. All that

10 is, you know, it's a common driveway.

11 Q. Okay. But you could see the neighbor's

12 house, right?

13 A. Well, of course.

14 Q. And did you get any pictures that day?

15 A. No, I didn't. They didn't come out.

16 Q. You said McKenzie called the police and

17 claimed that you were taking photos and

18 invading privacy, etc...etc..., right?

19 A. And I had the sculpture and he was

20 missing his EZ Pass and some other stuff from

21 the office; crazy stuff, you know, crazy.

22 Q. Did you have his EZ Pass?

23 (Laughter.)

24 A. No. No. That's ridiculous.

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1 Q. Okay. And when you say that he said

2 that you had a sculpture, did you understand he

3 was talking about the 18 inch HOPE sculpture

4 that you had in the house where you were

5 residing?

6 A. Yes -- yes, I did.

7 Q. Were you refusing to let him have that

8 back?

9 A. I said I was going to wait and see what

11:21:51AM 10 they told me to do, you know.

11 Q. You were going to wait and see who told

12 you what to do?

13 A. The FBI.

14 Q. Did you tell McKenzie you were waiting

15 for instructions specifically from the FBI?

16 A. Yes. Yes.

17 Q. So you told him you were refusing to

18 give him the sculpture because you were waiting

19 the FBI instructions?

11:22:04AM 20 A. Yes.

21 Q. We lost your video.

22 MS. ZERNER: I'm going to continue

23 this way since we seem to be hearing him. Let

24 me know if you cannot --

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1 A. Okay.
 2 Q. I just want to be clear. Mr. Gonzalez,
 3 can you hear me?
 4 A. Yep.
 11:22:59AM
 5 Q. Mr. McKenzie had asked and wanted to
 6 retrieve the HOPE sculpture that you had in the
 7 house where you were staying on the Katonah
 8 property and you would not return it to him at
 9 that time, right?
 11:23:21AM
 10 A. I don't remember having -- engaging in
 11 any conversation with him requesting it.
 12 Q. Well, earlier we looked at an e-mail
 13 where you said "I received an e-mail earlier
 14 this morning from Mr. McKenzie requesting the
 11:23:50AM
 15 18 inch aluminum HOPE sculpture. What should I
 16 do."
 17 Remember that?
 18 A. Oh, yes. Yes. I remember that.
 19 Q. So he had requested it and you wouldn't
 11:23:58AM
 20 let him come get it, right?
 21 A. Well, I didn't answer him. I don't
 22 think -- I didn't answer -- I didn't say yes or
 23 no, you know.
 24 Q. Okay. Then after that, you told him

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1 that you were going to wait for instructions
 2 from the FBI before providing that sculpture to
 3 him, right?
 4 A. Yeah, I was left with the impression
 11:24:31AM
 5 that they were going to do some kind of
 6 movement.
 7 Q. What gave you that impression?
 8 A. But nothing materialized. Just the
 9 impression from our conversation.
 10 Q. You thought the FBI was going to take
 11 action against McKenzie?
 12 A. Yeah.
 13 Q. And what's the basis for that
 14 impression? Why did you have that impression?
 11:24:44AM
 15 A. Um, just got that impression.
 16 Intuitive, gut reaction.
 17 Q. Well, what did the FBI agent say to
 18 you?
 19 A. About?
 11:25:25AM
 20 Q. About McKenzie.
 21 A. About what?
 22 Q. In response to what you told him about
 23 McKenzie and the art work.
 24 A. He said he would get back to me. He

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1 would get back to me, you know.
 2 Q. And you can't say -- what about what he
 3 said or how he acted indicated to you that they
 4 were going to move on McKenzie?
 11:25:52AM
 5 A. I don't know. Just an impression that
 6 I got. I don't know. Maybe I'm wrong. I
 7 don't know. Maybe didn't have any intention at
 8 all.
 9 They obviously didn't want to see that
 10 they were doing something like radical or with
 11 the art -- with that art, you know, prior to,
 12 you know, the end of their investigations. I
 13 don't know.
 14 Q. Is it your understanding --
 11:26:40AM
 15 A. Could be investigating right now.
 16 Q. Is it your understanding the
 17 investigation is still open?
 18 A. Yep, I think so. Yep.
 19 THE COURT REPORTER: Bridget, at
 20 some point can we just take two seconds. I do
 21 need to run to the ladies room.
 22 MS. ZERNER: Sure. Let's do it
 23 know.
 24 (A brief recess was taken at 11:27
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1 a.m.)
 2 (Resumed at 12:04 p.m.)
 3 CONTINUED DIRECT EXAMINATION
 4 BY MS. ZERNER:
 12:05:07PM
 5 Q. Mr. Gonzalez, I'm sharing the screen so
 6 you can see the next document. This is bates
 7 stamp QE 1, and we're marking it as Exhibit 10.
 8 (E-mail was marked for
 9 identification as Exhibit No. 10.)
 12:05:21PM
 10 Q. This appears to be an e-mail from you
 11 to Luke Nikas on September 17, 2021. Do you
 12 see that?
 13 A. Yes.
 14 Q. And it says "Luke, McKenzie had the
 15 police here today". Do you see that?
 16 A. Yes.
 17 Q. Thank you. You recall sending this to
 18 Mr. Nikas?
 19 A. Yes.
 12:05:48PM
 20 Q. And it says that "McKenzie had the
 21 police here today wanting to come in and
 22 videotape the sculpture. I didn't permit it".
 23 Is that true?
 24 A. Yeah.

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1 various attorneys involved in the litigation?
 2 A. Yeah. Yeah.
 3 Q. So at the top of the e-mail on August
 4 27th it says Ed Boyle is saying "Oz, are you
 5 available to speak this weekend". Do you see
 6 that.
 7 A. Yes.
 8 Q. Did you have any conversations with Ed
 9 Boyle or anyone at Venable prior to this?
 10 A. No.
 11 Q. And just to clarify, I know it's been
 12 several years of litigation, so I mean between
 13 August 17th 2021 and August 27th, did you have
 14 any conversations with Ed Boyle or anyone at
 15 Venable?
 16 A. No.
 17 Q. Now, when he says "are you available to
 18 speak this weekend", I understand that you then
 19 met in person with Luke Nikas and Ed Boyle the
 20 following Monday, August 30th, correct?
 21 A. Correct.
 22 Q. Did you speak with any of them between
 23 Friday August 27th and Monday when you got
 24 together other than as to discussing the

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1 logistics of how you were going to meet?
 2 A. No.
 3 Q. Okay. And you met at the Sonesta in
 4 White Plains, right?
 5 A. Right.
 6 Q. Was anyone else there besides Ed Boyle
 7 and Luke Nikas?
 8 A. Yes.
 9 Q. Who else was there?
 10 A. John.
 11 Q. Oh, John Vasquez?
 12 A. Yes.
 13 Q. Anyone else?
 14 A. The stenographers, assistants, other
 15 people.
 16 Q. How many other people other than the
 17 three attorneys?
 18 A. Three.
 19 Q. Do you know which firm they were from?
 20 A. I thought they were from um, Quinn
 21 Emanuel.
 22 Q. How long did you meet with all of them?
 23 A. An hour and a half.
 24 Q. And during that time did one of them

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EXHIBIT G - 24

1 draft a declaration for you on a computer?
 2 A. He drafted a -- the document, yes.
 3 Q. A declaration that you ultimately
 4 signed that day?
 5 A. Yes.
 6 Q. Okay. So they were drafting it while
 7 you all discussed the content of it at that
 8 meeting?
 9 A. We worked on it together. It went
 10 along.
 11 Q. What was the last thing you said?
 12 A. I said it went along.
 13 Q. Did you make a draft of any declaration
 14 prior to meeting on August 30th?
 15 A. No.
 16 Q. And do you recall who specifically was
 17 typing up your declaration?
 18 A. I think Mr. Nikas.
 19 Q. And can you just describe to me how you
 20 all collaborated that day?
 21 A. Well, we talked about the different
 22 issues that they were interested in. We
 23 discussed the art, the Trust, you know, all
 24 that stuff with the Trust and the sale. We

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1 discussed some of the art that was being
 2 stenciled, the HOPE sculptures that were being
 3 stenciled, I think, with a 2015 stamp.
 4 MS. ZERNER: Can you hold for me
 5 one moment. My car has to be removed for snow.
 6 I'm just going to give someone else my keys.
 7 Hold on.
 8 (Pause.)
 9 MS. ZERNER: Back on. Sorry about
 10 the interruption.
 11 Q. I think the last thing I had -- you
 12 said something about a 2015 stamp.
 13 A. The stencil being used -- stenciling
 14 the 10 and a half inch HOPE screen instead of
 15 2015.
 16 Q. Okay.
 17 A. I don't know if that's legit or not,
 18 you know. Tim didn't think so. He's a master
 19 printer.
 20 Q. It was a 10 and a half inch silk screen
 21 of what?
 22 A. HOPE.
 23 Q. So the declaration was drafted that day
 24 and you signed it that day while you were all

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1 together?
 2 A. Right there, yep.
 3 Q. So there were no e-mails back and forth
 4 about drafting the declaration?
 12:25:03PM 5 A. No.
 6 Q. And did you request anything in
 7 exchange for assisting with that declaration?
 8 A. I asked them to see if they could help
 9 my daughter. My daughter was in very bad
 10 shape. I was concerned about the safety issue,
 11 and that's the only thing I asked for; to help
 12 my daughter.
 13 As you know, you know, things didn't
 14 work. She didn't -- you know, we didn't get
 15 any help. She disintegrated and tried to
 16 commit suicide. She had a very serious
 17 attempt. That was the help that I got.
 18 Q. So there was -- neither Quinn Emanuel
 19 or Venable offered any -- proposed to help in
 12:26:00PM 20 any way with what you requested?
 21 A. Nothing, nothing. No.
 22 Q. Have you received any kind of payment
 23 from anyone on behalf of the Morgan parties?
 24 A. No. No.

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1 Q. From anyone on behalf of the Estate?
 2 A. No.
 3 Q. From anyone on behalf of the Star of
 4 Hope?
 12:26:24PM 5 A. No, nobody.
 6 Q. Was there any proposal made to work for
 7 any of them or to sell art work?
 8 A. No. No.
 9 Q. Did you offer to sell any art work to
 10 them?
 11 A. I don't think so.
 12 Q. At this point you were still living at
 13 the house on the Katonah property of Michael
 14 McKenzie, right?
 12:26:56PM 15 A. Who me?
 16 Q. Right, on August 30th.
 17 A. Right. Yeah, on August 30th. I moved
 18 out on October the 1st.
 19 Q. And why did you assert the Fifth
 12:27:15PM 20 Amendment when I previously asked you about the
 21 same subject matter; your communications with
 22 Quinn Emanuel and Venable?
 23 A. Because I didn't have any idea what the
 24 investigation was going on was about.

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EXHIBIT G - 25 99

1 Q. The FBI investigation?
 2 A. Yeah.
 3 Q. The one that --
 4 A. I was serious about that.
 12:27:39PM 5 Q. Well --
 6 A. You know, you knew too much about Greg
 7 Allen. I figured I didn't know if Greg Allen
 8 was the target or the confidential informant,
 9 you know. Didn't know too much about him.
 12:27:59PM 10 Q. Well, why is that a concern for
 11 yourself and you providing testimony?
 12 A. Why -- sorry? Can you ask me the
 13 question again?
 14 Q. Yeah, my question had been why were you
 15 asserting the Fifth Amendment when I tried to
 16 ask you questions about your communications
 17 with Venable and Quinn Emanuel, and you said
 18 that it was because of this FBI investigation
 19 and they knew so much about Greg Allen.
 12:28:17PM 20 And I asked why was that a concern for
 21 you and you providing testimony about your
 22 communications with these law firms at the last
 23 deposition.
 24 A. Because they were moving a lot of stuff

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1 in September -- August and September. A lot of
 2 stuff was going out the door to a billionaire
 3 buyer that they had, you know. And they had
 4 this guy, we're talking -- he took out like
 12:29:06PM 5 160 pieces of HOPE, you know.
 6 And -- and -- and it was just this
 7 whole -- you know, I wasn't even allowed to be
 8 near them when they talked.
 9 Q. And when you say they were moving a lot
 10 of stuff to him, who are you talking about?
 11 A. Michael McKenzie handing stuff over to
 12 Greg Allen.
 13 Q. And you had already openly talked about
 14 to the FBI about what you knew about all that,
 15 right?
 16 A. I -- actually, they told me.
 17 Q. Who told you?
 18 A. Well, I think by letting me know that
 19 they knew who Greg Allen was, there was nothing
 12:29:45PM 20 I had to say to him like --
 21 Q. As of October 1st when we were all
 22 together for your deposition last time, you had
 23 already openly discussed everything you knew
 24 about the movement of art work with the FBI,

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1 right?
 2 A. Yeah.
 3 Q. You told them about what you knew about
 4 Greg Allen, right?
 12:30:26PM 5 A. I mentioned it, yep, and they told me
 6 they knew about him already.
 7 Q. I'm still trying to understand why you
 8 thought you should remain silent when I asked
 9 you questions about conversations.
 12:30:38PM 10 A. Because I didn't know what the whole
 11 scope of the whole investigation was. I didn't
 12 know what it was. I'm sitting here working. I
 13 talk to these people. I'm around. You know, I
 14 didn't know what they were looking for. I
 15 didn't know what was going on, you know.
 16 Q. Why were you concerned that you could
 17 be a target?
 18 A. Because I didn't know what the
 19 investigation was. It could be -- maybe I was
 12:31:05PM 20 just being overly cautious. I don't know. I
 21 was a criminal layer for 40 years. You know.
 22 Q. And you thought you were at risk?
 23 A. I didn't know if I was at risk. I
 24 didn't know. I wanted to find out and I found

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1 out what I wanted to find out. Then I wrote
 2 you a letter and said that I was willing to
 3 proceed, but you didn't get back to me about
 4 it.
 12:31:39PM 5 Q. So you thought you could be at risk of
 6 being a target of the FBI investigation?
 7 A. I told you I didn't know. I didn't
 8 know. I mean, I could sit there and take ten
 9 guesses each way.
 12:31:59PM 10 Q. So when we were last together on
 11 October 1st, I believe you said you did not
 12 reach out to any auction houses or galleries
 13 about McKenzie since August 2021, right?
 14 A. To say negative things about him?
 12:32:18PM 15 Q. To say anything about him.
 16 A. I -- no. No, I didn't.
 17 Q. Have you contacted any auction houses
 18 or galleries since that time, since
 19 October 1st?
 12:32:28PM 20 A. No. No.
 21 Q. Have you spoken to any reporters about
 22 McKenzie or American Image Art since
 23 August 17th?
 24 A. No. One guy wrote me that he wanted to

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EXHIBIT G - 26 103

1 talk to me. He's writing a book. And I didn't
 2 even answer him.
 3 Q. Who was that?
 4 A. I don't remember the guy's name. He
 5 was a reporter.
 6 Q. Okay. And other than the FBI, have you
 7 talked to any other law enforcement agent about
 8 Michael McKenzie or American Image Art?
 9 A. No.
 10 Q. Have you spoken to any other
 11 governmental agent about Michael McKenzie or
 12 American Image Art?
 13 A. No.
 14 Q. And you may have answered this already.
 15 Have you spoken to any state or federal
 16 prosecutor about American Image Art or Michael
 17 McKenzie?
 18 A. No.
 19 Q. Now, I'm going to show you the
 20 declaration that we were talking about that you
 21 signed in White Plains on August 30th. We had
 22 previously marked this as Exhibit 1 for your
 23 deposition. Do you recognize this?
 24 A. Yes, I do.

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1 Q. We'll just confirm; is this your
 2 initial here on the bottom right?
 3 A. Yes.
 4 Q. We'll go through each page. You see an
 12:34:18PM 5 initial and that's your signature?
 6 A. Yes.
 7 Q. Now, this indicates a date of 4 --
 8 well, 4:00 p.m., right, August 31, 4:00 p.m.,
 9 right?
 12:34:41PM 10 A. Uh-huh.
 11 Q. I believe earlier you said you were
 12 only there for an hour and a half.
 13 A. Yep.
 14 Q. Okay. So this was printed out at the
 12:35:05PM 15 hotel for you to sign that day?
 16 A. Yes.
 17 Q. Okay. And you signed this under
 18 penalty of perjury?
 19 A. I don't remember that.
 20 Q. Well, do you see this first line that
 21 says "I, Osvaldo Gonzales, do hereby declare
 22 under penalty of perjury that the following is
 23 true and correct"?

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1 **Q.** If we go down to the end, it says "I
2 declare under penalty of perjury" and you
3 signed?

4 **A.** Yes. Yes.

12:36:15PM 5 **Q.** Now, you're talking here about "in and
6 around November of 2019 McKenzie asked me to
7 join him at a mediation that was being held on
8 November 25th and 26th in Portland, Maine with
9 the parties to the Southern District of New
10 York action as well as the Star of Hope and the
11 Maine Attorney's General's Office. I travelled
12 to and from the mediation with McKenzie by
13 car."

12:36:31PM 14 **Q.** Right?

12:36:45PM 15 **A.** Yes.

16 **Q.** What is your understanding of how that
17 mediation came about?

12:37:16PM 18 **A.** That mediation came about because I
19 believe that Morgan had persuaded the Estate to
20 mediate. And in that, was going to be engaged,
21 they asked Michael if he wanted to -- if he
22 wanted to join in the mediation that he could.
23 And he decided to do it.

24 **Q.** And he asked you to go along with him?

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12:38:00PM 1 **A.** Yes, I didn't want to go. But I had
2 told him no, I didn't want to go. I didn't
3 want to be in the car with him for three and a
4 half hours with him. Are you kidding? Oh my
5 God.

12:38:15PM 6 **Q.** Why did you decide to go?

12:38:34PM 7 **A.** Because he insisted. He insisted and
8 he told me that he talked to Mr. McLaughlin,
9 the Chief Mediator, and he said that anybody
10 could accompany you to that; they don't have to
11 be -- it was just anyone, a friend or anybody
12 you want if you think they could help you with
13 it is welcome at the arbitration. So I ended
14 up going.

12:38:45PM 15 **Q.** And at this time Mr. McKenzie was
16 represented by John Simone in the --

17 **A.** Yes, John Simone.

18 **Q.** And why didn't McKenzie take an
19 attorney?

12:38:45PM 20 **A.** Because he didn't want to pay.

21 **Q.** And when you got there, who did you see
22 there in attendance?

23 **A.** Everybody. Lot of people were there,
24 You know.

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EXHIBIT G - 27 107

1 **Q.** Well, you saw attorneys from the Maine

2 Attorney General's Office?

3 **A.** Yes.

4 **Q.** Did you recognize Linda Conte? Did you
5 meet her?

6 **A.** You know, I didn't personally meet her
7 at all, no. I know that they were in the room,
8 one of the rooms, her and Boyle, you know.

9 **Q.** Okay.

10 **A.** But I never engaged them in any type of
11 conversation.

12 **Q.** And you were -- was it your
13 understanding that Star of Hope representatives
14 were there?

12:39:36PM 15 **A.** Oh, they were definitely there. They
16 were definitely there. They had two lawyers.
17 They had two lawyers there.

18 **Q.** Did you speak to those lawyers?

19 **A.** I think I did speak -- no. No. I
20 didn't speak to those lawyers. I didn't speak
21 to them.

22 **Q.** Do you know if Larry Storrs was there?

23 **A.** Larry Storrs was there.

24 **Q.** He was there?

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1 **A.** I'm pretty sure Larry Storrs was there.

2 **Q.** Did you speak with him at all?

3 **A.** No.

4 **Q.** And obviously, attorneys for the Estate
5 and Mr. Brannan were there?

6 **A.** Yes.

7 **Q.** And attorneys for Morgan?

8 **A.** Yes. And all those other people were
9 there. There were a lot of people there for

10 Morgan; the brothers, the father, you know.

11 **Q.** Are you referring to the Salama-Caro
12 family?

13 **A.** Yeah.

14 **Q.** All right. Going back to be Exhibit 1,

12:41:12PM 15 if you look at paragraph 10 and read through
16 it, this is your -- can you confirm this is
17 your position of what you considered to be
18 forging of Robert Indiana's art works?

19 **A.** Well, like I said before, the question

20 is if you're putting those stencils on those
21 canvasses and you have two different dates and
22 you don't even know which one is which, and
23 it's from 2015, which is now six or seven years
24 ago, you know, I don't know.

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1 We need an expert to figure that out.
 2 Q. Well, you don't ask a question; you say
 3 "I have observed McKenzie forging Robert
 4 Indiana art works", right?

12:42:12PM 5 A. He keeps putting the stencils on those
 6 silk screens from 2015.

7 Q. And you personally contend that that's
 8 a forgery?

12:42:26PM 9 A. If it's not an authorized signature,
 10 it's a forgery, yeah. Yeah.

11 Q. And this is what you're talking about,
 12 that you already described to us about Tim
 13 Ginexi saying to you that he refused to stencil
 14 Indiana's signature?

12:42:46PM 15 A. Yeah. It's a stamp.

16 Q. By the way, did you ever meet Robert
 17 Indiana?

18 A. No.

12:43:14PM 19 Q. Now, in this paragraph you say
 20 referring to Annette Vessecchia, and I'm
 21 looking at paragraph 11; "Vessecchia told me
 22 she was reluctant to stencil Indiana's
 23 signature on the art works because they were
 24 not authorized, but she told me that McKenzie

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1 intimidated her into doing so. Specifically,
 2 McKenzie frequently intimidated Vessecchia and
 3 his other employees by using implicit threats
 4 of violence."

12:43:34PM 5 When did Vessecchia tell you, as you
 6 say here, that she was reluctant to stencil a
 7 signature on the art works?

8 A. Well, this is very interesting because
 9 Michael asked her to prepare to stencil in July
 10 of '20, so for a year she didn't do it.

11 Every once in a while I'd ask her about
 12 it. She didn't want to do it. So a year went
 13 by, and I remember exactly because I said to
 14 myself, I'm going to write on this box the
 15 date -- it was July the 13th -- to see how long
 16 it's going to be before she does it.

17 And she didn't do it until the very end
 18 when he started getting -- basically telling
 19 her if they didn't want to do it, they were not
 20 going to have any work. He's a bully. He's a
 21 bully.

22 Q. And --

23 A. Robert Indiana didn't authorize it.

24 Q. You say here that -- are you saying

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1 that Annette Vessecchia explicitly said to you
 2 that she didn't want to do it because she
 3 believed it was not authorized by Indiana?
 4 A. Yeah.

12:45:11PM 5 Q. And then you talk about here threats of
 6 violence. Have you ever seen any guns at Mr.
 7 -- in Mr. McKenzie's possession?

8 A. No.

9 Q. Did you ever see any guns -- go ahead.

12:45:31PM 10 A. But he talks about it constantly, about
 11 his guns and that he's going to go get them and
 12 do such and such and such. And then he goes
 13 into these wild exaggerated things that he's
 14 going to do or did or -- and it's all violent.

12:45:48PM 15 They are all violent.

16 Q. You said -- have you ever seen any guns
 17 on the Katonah property?

18 A. No, I haven't.

19 Q. You've understood -- Mr. McKenzie told
 20 you he had a gun?

21 A. Yes, and he had it in the house.

22 Q. Was it one gun or more than one gun?

23 A. I never discussed that with him. No, I
 24 think he had more than one gun. I think he had

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1 more than one gun.

2 Q. When was the first time -- since you
 3 started working at American Image Art in 2019,
 4 when was the first time you heard him mention a
 5 gun?

6 A. Oh, it had to be right away. Right
 7 away. He just talks. They are bullshit
 8 stories. They are like these sarcastic
 9 bullshit stories that he intertwines with these
 10 violent themes, you know.

11 Q. Do you consider it bullshit?

12 A. Yeah, I consider -- I think it's
 13 bullshit. When you -- you never know though if
 14 any of it's true. I don't want to find out the
 15 hard way.

16 Q. So moving on to paragraph 12, you say
 17 in the second sentence "among the art works
 18 that Mike McKenzie has forged recently are
 19 hundreds of silk screens of Four Seasons of

20 HOPE. Are those the same Four Seasons that we
 21 saw depicted in that earlier e-mail that you
 22 took a picture of?

23 A. Yeah, that's part of it, yeah.

24 Q. Okay.

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1 A. How many -- how many does the contract
 2 say and what colors? Does it say 300?
 3 Q. And then you say "as well as two HOPE
 4 sculptures that are in the process of being
 5 created".
 6 A. Yeah.
 7 Q. Are those the ones that you were
 8 transporting when the diesel incident happened?
 9 A. Yeah.
 10 Q. All right. Moving on to this part
 11 where you say that McKenzie was moving art
 12 work.
 13 A. Yep.
 14 Q. Now, before this -- before we get to
 15 the movement of the art work, there was, back
 16 in May -- on May -- excuse me -- 25th 2021,
 17 attorneys and Salama-Caro came to McKenzie's
 18 Katonah property, right?
 19 A. Right.
 20 Q. And you were there?
 21 A. Yes.
 22 Q. And did you understand at the time that
 23 there were discussions about the Star of Hope
 24 taking possession of all the Indiana art work

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1 in order to sell it and give McKenzie back part
 2 of the proceeds?
 3 A. I don't remember.
 4 Q. Are you saying you don't remember that?
 5 A. No.
 6 Q. I can't hear your answer.
 7 A. I said I don't remember that.
 8 Q. You don't remember in early 2021
 9 ongoing settlement discussions to see if we
 10 could arrange a deal where the other parties
 11 would purchase the Robert Indiana art work from
 12 Michael and pay him a percentage?
 13 A. I remember there was a deal. I don't
 14 know if that's exactly what the deal was
 15 though. There was a deal.
 16 Q. And you mentioned before that Mike had
 17 had some communications with Don Zuretski,
 18 right?
 19 A. Don Zuretski? He had no communication
 20 with Don other than Don Zuretski was forced to
 21 listen to a 40-minute harangue that was about
 22 nonsense.
 23 Q. But Mr. Zuretski and that Zuretski
 24 phone call occurred because there had been

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EXHIBIT G - 29 115

1 discussions of whether or not a settlement
 2 could be reached between American Image Art and
 3 Star of Hope and other parties, right?
 4 A. Yeah, but that wasn't going to happen.
 5 Wasn't even remotely close.
 6 Q. Okay. If we stick with my questions,
 7 we can get to that. You understand that that
 8 was discussed, right?
 9 A. It was discussed.
 10 Q. And you understood back in May, 2021
 11 that we all arranged for representatives for
 12 the Star of Hope and of Morgan to come to the
 13 Katonah property to view the art work;
 14 specifically to see all the art work and value
 15 it as part of settlement discussions, right?
 16 A. Yes, but that wasn't true.
 17 Q. What wasn't true?
 18 A. That there were going to be settlement
 19 proposals.
 20 Q. At the time, leading up to May 25th
 21 2021, you were aware from discussions with
 22 McKenzie that it was on the table -- whether or
 23 not it was going to happen -- it was being
 24 proposed for the parties to consider whether

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1 they could reach a settlement where they would
 2 purchase all the Indiana art work from Michael.
 3 And as part of that, they wanted to see his
 4 inventory, right?
 5 A. Right.
 6 Q. And you were there when the parties
 7 came to the Katonah property to see the art
 8 work.
 9 A. Yes.
 10 Q. Do you remember Tom McCarty from our
 11 office was there?
 12 A. Yes.
 13 Q. And Michael McKenzie was not there,
 14 right?
 15 A. No, I don't think so. No. Right, he
 16 wasn't there.
 17 Q. Because the other parties didn't want
 18 him there.
 19 A. Right.
 20 Q. And so you were there on behalf of
 21 American Image Art?
 22 A. Yes.
 23 Q. And you were in charge of showing them
 24 all the art work?

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1 A. No. Actually, I wasn't the person in
2 charge. Annette was the person in charge.
3 Q. Annette was in charge?
4 A. Yes.
12:53:01PM
5 Q. Are you saying Annette was there the
6 whole time and showing people the art work?
7 A. Yes. Yes.
8 Q. The whole time?
9 A. Yeah, a lot.
12:53:09PM
10 Q. And you were there too?
11 A. I was there.
12 Q. You were there the whole time. You
13 were talking to Don Zuretski for a while?
14 A. I was -- I was there -- you know, I was
12:53:21PM
15 there. It was in my front yard.
16 Q. Well, you were there talking to the
17 people involved with the value --
18 A. I didn't have any really conversations
19 with anybody about anything, no.
12:53:36PM
20 Q. You don't recall us pointing out the
21 art work and getting your opinions on the value
22 of the art work at that time back in May?
23 A. I -- I may have very well done that. I
24 may have well done that.

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1 Q. Did you -- you were in the studio with
2 them when they were looking at all the art
3 work, right?
4 A. Yes.
12:53:59PM
5 Q. And did you show them -- was there art
6 work in the basement of McKenzie's house at
7 that point in May, 2021?
8 A. Yes.
9 Q. Was it Indiana art work?
12:54:14PM
10 A. Yes.
11 Q. Did you show those parties that art
12 work?
13 A. I wasn't showing it. Annette was
14 showing it.
12:54:20PM
15 Q. Did you show them the art work in the
16 basement?
17 A. No, I wasn't the person doing the
18 showing.
19 Q. Okay. So you weren't in charge is what
20 you're saying?
21 A. I wasn't in charge. Annette was in
22 charge.
23 Q. Did you show them --
24 A. She actually has all the records, all

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1 the books. She has the archived, you know.
2 She's the one who knows where the old art is.
3 Q. And you don't recall anyone talking to
4 you about the art work on the property that
5 day?
6 A. No.
7 Q. And the HOPE from the Democratic
8 National Convention was there that day too,
9 right?
10 A. The HOPE?
11 Q. What was that?
12 A. The HOPE?
13 Q. The HOPE from the DNC was there that
14 day.
12:55:12PM
15 A. It was there, yeah.
16 Q. Did it have a tarp on it?
17 A. Yes, it did.
18 Q. This is in May; May 25th 2021.
19 A. Yep.
12:55:27PM
20 Q. You're saying there was a tarp on it
21 then for the first time?
22 A. I think so. I think so.
23 Q. Was it your understanding on that visit
24 in May, the first one that was part of

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1 settlement discussions about whether all the
2 art work could be purchased and what the value
3 of that art work was, from your observation do
4 you think art work was being hidden on that
5 first visit?
6 A. They didn't see the collection. In
7 fact, not only did they not see the collection,
8 they only looked through half of what they had
9 and declared it over and left. They never came
10 back to look at the collection themselves.
11 This idea of someone offering him the
12 money to buy the art and having them come with
13 inventory, it's -- it wasn't ever going to
14 happen. You know, he says he has 30 million
15 dollars in art. You know, these people are
16 talking about 5 million. I don't know what
17 it's worth, but the guy thinks it's worth a lot
18 of money.
19 Q. Who declared it was over, that you just
20 referenced?
21 A. Who declared? Oh, the Salama-Caros,
22 they -- they just left in the middle of the
23 inspection and it never got finished. They
24 said no, we don't have to look anymore.

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1 There's too many unauthorized pieces.
 2 Q. Who did you hear say that?
 3 A. Simon Salama-Caro.
 4 Q. You were upset after that visit, right?
 5 A. I wasn't upset. I didn't -- I didn't
 6 get upset about that.
 7 Q. You didn't express that you were upset
 8 about that meeting and that you didn't think
 9 they were really engaging in good faith
 10 settlement?
 11 A. Well, that -- yeah, that's for sure.
 12 But you know, I mean, what's the magnitude of
 13 my upset? You know.
 14 Q. So you said Simon Salama-Caro declared
 15 they didn't have to look at anything else
 16 because there were too many unauthorized
 17 pieces?
 18 A. That was the end of the deal right
 19 there, after the inspection.
 20 Q. And did you have a suspicion that they
 21 were trying to take this art work so they could
 22 give it to the Rosenbaum Gallery to sell and
 23 cut Mike out of it?
 24 MR. NIKAS: Objection.

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1 Q. Mr. Gonzalez, can you answer the
 2 question?
 3 A. Can you give me the question one more
 4 time?
 5 MS. ZERNER: Do you have it, Ms.
 6 Starr?
 7 THE COURT REPORTER: I do. The
 8 question is *"and did you have a suspicion that
 9 they were trying to take this art work so they
 10 could give it to the Rosenbaum Gallery to sell
 11 and cut Mike out of it".*
 12 A. Okay. Now, there are like numerous
 13 conspiracy theories evolving with the Rosenbaum
 14 Gallery.
 15 Q. I just want to know what you thought,
 16 Mr. Gonzalez, what you thought, what your
 17 impression was after that first visit to the
 18 Katonah property by the Morgan parties after
 19 they cut off their review of the art work and
 20 didn't want to see anything else.
 21 A. Look, I -- I didn't make that --
 22 MR. NIKAS: Hold on. Objection.
 23 A. I didn't make the connection that
 24 you're discussion. I was a little, you know,

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1 taken aback that neither side was like talking
 2 in good faith. There was nothing they were
 3 going to say to him that he was going to, know
 4 you, and they weren't going to offer him
 5 anything that he was going to accept. It was a
 6 waste of time.
 7 He's not going to reveal how much art
 8 he had because once you do that, you open
 9 yourself up to really minimizing what you could
 10 sell. You can only sell what you say you got.
 11 And he didn't -- he owns all this stuff and he
 12 doesn't want anybody to go through the real
 13 inventory of what he had. He refuses to do it.
 14 Q. So you're saying at that first visit in
 15 May when we were discussing settlement and
 16 there was no Court Order in place -- we were
 17 just discussing settlement -- and we invited
 18 these parties to the Katonah property, that
 19 McKenzie was hiding art work from them? Is
 20 that what you're saying?
 21 MR. NIKAS: Objection.
 22 A. I'm just saying that they didn't see
 23 all the art and they left it all. They left in
 24 a hub, you know.

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1 Q. So as in to hiding the art work, is it
 2 your contention that art work was being hidden
 3 from them on that first day, May of 2021?
 4 A. I don't want to, you know, make that
 5 judgement.
 6 Q. Well, I don't understand your answer.
 7 To your knowledge, was art work being hidden
 8 from them on that date in May when they were
 9 invited to review art work during settlement
 10 discussions?
 11 A. I think so, yeah.
 12 Q. Why do you say that?
 13 A. Because I think I have -- some of those
 14 pictures I have are dated and I think they --
 15 they under that May date. That may be them,
 16 the piles of canvasses that went into Annette
 17 Vessecchia's car.
 18 Q. You're skipping over to August. I'm
 19 still talking about May 25th 2021 when the
 20 parties gathered by agreement and they were
 21 invited to the Katonah property to review the
 22 art.
 23 As of that time, May 25th 2021, did you
 24 personally believe on that date that art was

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1 being hidden from anyone?

2 A. The problem I'm having is that who
3 knows what's going to happen if they had
4 stayed. They didn't stay. Obviously they
5 didn't see three quarters of everything because
6 they left.

7 Q. That wasn't -- you're not answering my
8 question. I'm talking about whether you
9 believed on that date on May 25th, whether you
10 believed or are aware of anyone taking an
11 action to hide art work from the rest of the
12 parties that came to view the art work on that
13 date.

14 A. Yes.

15 Q. What is the basis for you saying that?

16 A. Well, I saw them taking the canvasses
17 and moving them over to the other building.

18 Q. On May 25th?

19 A. Whatever, whatever date -- whatever
20 date the pictures, I took the pictures.

21 Q. You took pictures in August. I'm
22 talking about May 25th.

23 A. I may have taken pictures in May.

24 Q. What pictures?

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1 A. Some of the pictures -- the one that
2 shows Annette Vessecchia's car, I think, is
3 around the time of that first discussion.

4 Q. You produced those in response to -- in
5 August.

6 A. I think I produced them in August with
7 the ones that were taken in May.

8 Q. And the Court Ordered inspection
9 occurred in August.

10 A. Yeah, the first one?

11 Q. There was one Court Ordered inspection
12 of the Katonah property and that occurred in
13 August, okay?

14 A. What happened -- it happened before
15 that. It was before that.

16 Q. I understand you're saying the art work
17 was moved before the August 5th inspection,
18 right?

19 A. Didn't they come once, the Salama-Caros
20 and Mr. Nikas, and they all came down for the
21 inspection. And I think that was way before
22 August.

23 Q. Yes. That's what we've been talking
24 about is the May 25th visit pursuant to

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1 settlement discussions.

2 MR. NIKAS: I want to object and
3 make it clear for the record that the art work
4 that was concealed from us in May, we also
5 contend that was a violation of discovery and
6 directly contrary to testimony Mr. McKenzie had
7 given under oath that he had no such art work.

8 And we are also seeking sanctions --
9 because it was concealed to us before then --
10 we are also seeking sanctions and contempt and
11 other remedies with respect to the second
12 inspection where Mr. McKenzie again concealed
13 art work from us.

14 So just trying to make it clear that
15 the objection is not only to the incoherence of
16 the question but also the premise of the Relief
17 we have pending.

18 MS. ZERNER: You get that, Mr.
19 Gonzalez?

20 Q. So I'm asking you again about -- what I
21 was just trying to understand is whether you
22 contend or believe or observed that art work
23 was moved to be hidden from the other parties
24 before the visit on May 25th 2021 that occurred

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1 pursuant to settlement discussions?

2 A. Yes.

3 Q. What is the basis for you saying that
4 art work was hidden?

5 A. I witnessed them take it out of the
6 studio, put it into -- in cars, stacks of them.
7 You know, each one of those is 200 pieces of
8 art, you know. It took a few trips. They
9 didn't want them to see that.

10 Q. They put it in cars and moved it where?

11 A. To the house.

12 Q. McKenzie's house?

13 A. Yep.

14 Q. And who did that specifically?

15 A. Annette.

16 Q. And did you speak up then on May 25th
17 2021 and tell anyone that there was more art
18 work to observe?

19 A. No. That wasn't my job, no.

20 Q. Oh.

21 A. Annette does that. She has all the
22 inventory. She knows where everything is.
23 She's the only one who does.

24 Q. And then there was a second visit on

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1 August 5th 2021 that occurred after a Court
 2 Order issued, right? Was that a yes?
 3 A. What date was that?
 4 Q. August 5th.
 01:09:39PM 5 A. August 5th, okay.
 6 Q. Prior to the August 5th visit when the
 7 attorneys from Quinn Emanuel came to inspect
 8 and look at documents -- do you recall that?
 9 A. Yes.
 01:09:52PM 10 Q. Did you understand at that time that a
 11 Court Order had issued?
 12 A. They never discussed that with me, no.
 13 Q. So at the time you weren't aware of a
 14 Court Order?
 01:10:08PM 15 A. No, I was just told that they were
 16 coming. That's all.
 17 Q. Okay. What was your understanding of
 18 why they were coming?
 19 A. They were coming to inspect, inspect
 01:10:19PM 20 the inventory.
 21 Q. Did you have an understanding that they
 22 were coming to inspect documents of American
 23 Image Art?
 24 A. I think they had -- let's see, they had

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1 authority to look at anything that was related
 2 to the case; e-mails -- this is where Annette
 3 has the archives and all the electronic, you
 4 know -- she knows where everything is.
 01:10:51PM 5 Q. And you were there for the inspection
 6 on that date?
 7 A. I was around, yes.
 8 Q. And Mr. McKenzie was not there, right?
 9 A. No, he wasn't.
 01:11:03PM 10 Q. And you recall it was requested by the
 11 other parties that he not be there, right?
 12 MR. NIKAS: Objection. That's
 13 false.
 14 A. Well, he got there right? He got there
 01:11:17PM 15 late.
 16 Q. I'm -- I wasn't there. So did he get
 17 there?
 18 A. Yeah, I think he got there late.
 19 Q. Before he got there, were you letting
 01:11:32PM 20 the parties into the studio to look at what was
 21 there?
 22 A. Yes.
 23 MR. NIKAS: Bridget, just so you're
 24 aware, and you obviously aren't, John Markham

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1 requested that McKenzie be allowed to attend
 2 that and he was there from the very beginning,
 3 that second inspection.

4 MS. ZERNER: Okay. I wasn't trying
 5 to make it -- I obviously didn't intend to make
 6 any false statement. My understanding was
 7 there were discussions about requesting him not
 8 to be there. But if that happened then thank
 9 you.

01:11:56PM 10 MR. NIKAS: I just don't want you
 11 to ask a line of questions where you're not

12 aware of that fact and we're wasting time. So
 13 John has asked him to be there. He was there.
 14 I saw him there at the very beginning. He
 15 wasn't involved in the inspection directly, but
 16 John did go occasionally to go speak with him
 17 throughout the course of it. That's the August
 18 date.

19 MS. ZERNER: Thank you.
 01:12:07PM 20 Q. Mr. Gonzalez, did anyone ask you to
 21 view any art work on that date, on August 5th?
 22 A. No.
 23 Q. Did you tell anyone on that date that
 24 art work had been moved?

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1 A. No. I wasn't talking to anybody.
 2 Q. I'm going to go back to your
 3 August 30th declaration. Within your
 4 declaration you said "in addition to hiding the
 01:13:38PM 5 art works by shipping them off the property,
 6 McKenzie also planned to conceal the art works
 7 through a sequence of transfers that would hide
 8 their true ownership"?

9 A. That's right.
 01:13:51PM 10 Q. How do you know about this?
 11 A. How do I know about it?
 12 Q. Yes.
 13 A. He told me. You know, first he asked
 14 me -- he said I'm going to transfer all of the
 15 property into Greg Allen's name, you know,
 16 which I thought was odd right there. But
 17 that's what he said, you know. You know, you
 18 can't talk about it. In other words, it isn't
 19 like you're going to have an exchange of ideas
 20 about this or that or the other thing. He
 21 already has his mind set he was going to do it.
 22 Q. Did you have any discussions with Greg
 23 Allen personally?
 24 A. No. Nope. He come up, load the stuff

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1 on -- into his van, take it away.
 2 Q. And when McKenzie discussed this with
 3 you, was anyone else present?
 4 A. Discussed what? Oh, yeah. I mean, he
 5 -- when he talks, he talks. I'm sure that --
 6 that Tim and Annette heard about it, you know.
 7 I'm sure. For sure. It's broadcasted. You
 8 know, and the first lawyers were through
 9 Panama.
 10 Q. If you were present -- when you were
 11 working for American Image Art, if you were a
 12 part of privileged communications between
 13 McKenzie and attorneys, I do not want you to
 14 disclose them because Mr. McKenzie has asserted
 15 his privilege. Okay?
 16 A. Okay.
 17 Q. So other than if you were involved in
 18 privileged communications, you're saying that
 19 you believe Annette Vessecchia and Tim Ginexi
 20 heard about this plan to conceal art work with
 21 Greg Allen?
 22 A. Yeah, yeah. Sure.
 23 Q. Anyone else a witness to these
 24 conversations?

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1 A. I'm sure Peggy must have heard it,
 2 yeah.
 3 Q. When you say here -- let me see -- so
 4 again, when you say here that "McKenzie had
 5 negotiations with Greg Allen" in paragraph 16
 6 of your declaration -- "he had extensive
 7 negotiations with Allen about implementing this
 8 plan" -- you weren't a party to those
 9 discussions, were you?
 10 A. No. No. Not at all. But I was
 11 informed that they were doing it, you know.
 12 Q. You're saying Mike told you this?
 13 A. Yeah, I told him to get a lawyer right
 14 away.
 15 Q. Did you have any further discussions --
 16 A. You don't know how ridiculous it is for
 17 him to suggest that he was going to put
 18 everything in Greg Allen's name. And I'll tell
 19 you why; when I was practicing law he asked me
 20 to contact the FBI because Greg Allen had
 21 robbed him of \$250,000 worth of art.
 22 Q. So wait. Are you disclosing when you
 23 were actually practicing as an attorney, are
 24 you now disclosing your privileged

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1 communications with McKenzie.
 2 (Laughter.)
 3 Q. Was he consulting you as an attorney to
 4 assist with that matter?
 5 A. No, not at all. Not at all.
 6 Q. Are you certain that Mr. McKenzie
 7 didn't have the understanding that he was
 8 seeking advice from you as an attorney at that
 9 time when you were actually practicing law?
 10 A. When I was -- when I was -- when I was
 11 admitted?
 12 Q. Yeah, that's what you were talking
 13 about, right? You just started to talk about
 14 how Mr. McKenzie came to you for assistance
 15 when you were practicing law related to Greg
 16 Allen?
 17 A. Yes. He wanted --
 18 Q. Mr. Gonzalez, on behalf of Mr.
 19 McKenzie, I'm not clear that this isn't a
 20 privileged communication when you were an
 21 attorney acting as his attorney, so we'll stop
 22 there for now.
 23 MR. NIKAS: And I want to put on
 24 the record that I have a problem with that

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1 privileged assertion. Mr. McKenzie had made
 2 accusations of wrong-doing against Mr. Gonzalez
 3 in connection with events that transpired
 4 related to Greg Allen.
 5 When an attorney is accused of
 6 wrong-doing in connection with the same exact
 7 subject matter that the individual later
 8 attempts to use as a sword in litigation, the
 9 attorney -- here it would be Mr. Gonzalez -- is
 10 within his right to defend himself against that
 11 wrong-doing by revealing the privileged
 12 communications.
 13 MS. ZERNER: You're saying that the
 14 allegations being made now by Mr. McKenzie open
 15 up the door to the prior privileged
 16 communications over ten years ago that had
 17 nothing to do with --
 18 MR. NIKAS: Black Letter New York
 19 Law.
 20 MS. ZERNER: Are you representing
 21 Mr. Gonzalez in any way, Mr. Nikas?
 22 MR. NIKAS: No, I'm not.
 23 MS. ZERNER: Okay.
 24 MR. NIKAS: I'm representing Morgan

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1 with an entitlement of gaining relevant
 2 information related to your client's
 3 wrong-doing in this case. And your assertion
 4 of privilege is directly relevant to and under
 5 New York Law --

6 THE COURT REPORTER: I'm sorry,
 7 attorney Nikas --

8 MR. NIKAS: -- under New York Law,
 9 settled New York Law, when an individual makes
 10 accusations of wrong-doing against his lawyer,
 11 that individual, that lawyer, is entitled to
 12 testify in a way to defend themselves against
 13 that wrong-doing and it does open the door.

14 MS. ZERNER: I understand that and
 15 I'm aware of that, but I think it's still
 16 regards to the wrong-doing itself. I'm not
 17 certain it opens the door to every possible
 18 privileged communication between that client
 19 and the attorney if it's completely irrelevant
 20 to the wrong-doing at issue and the allegations
 21 at issue. So we'll have to deal with that.

22 MR. NIKAS: We'll deal with it
 23 question by question. If we need to file a
 24 Motion to Compel as to the improper assertion

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1 of privilege you just made, then we will.

2 MS. ZERNER: If you're following up
 3 on this later, we may resolve it today.

4 CONTINUED DIRECT EXAMINATION

5 BY MS. ZERNER:

6 Q. Mr. Gonzalez, moving on to paragraph 18
 7 of your declaration where you say "the day
 8 after I informed McKenzie that I was leaving,
 9 one of his employees called me and warned me to
 10 be careful for your health."

11 Is this Tim Ginexi that you described
 12 earlier today or is this somebody else?

13 A. No, Tim Ginexi.

14 (Pause.)

15 Q. Okay.

16 MS. ZERNER: We're to mark another
 17 document. I think the next one we're on is 12.

18 (E-mail was marked for
 19 identification as Exhibit No. 12.)

20 Q. Oz, can you see the document on the
 21 screen?

22 A. Yes.

23 Q. Do you recall -- this is an e-mail back
 24 on August 25th 2021 that you sent to me, and

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EXHIBIT G - 35 139

1 you say there -- you're talking about here that
 2 art work was moved because, you say, "to avoid
 3 the inspection before the second look by Luke",
 4 right?

5 A. Uh-huh.

6 Q. So art work was moved between the May
 7 25th visit to the Katonah property and the
 8 second visit, the inspection that occurred in
 9 August, right?

10 A. Yep.

11 Q. And you say "plus three sculptures" --
 12 never mind.

13 You say, "he", I think referring to
 14 McKenzie, right, "went to a lot of trouble to
 15 hide the HOPE DNC". Do you see that?

16 A. Yep. Uh-huh.

17 Q. Did Mr. McKenzie go through a lot of
 18 trouble to hide the HOPE DNC?

19 A. I don't know. He didn't want anybody
 20 to see it. I don't know.

21 Q. Why did Mr. --

22 A. I don't know why. That thing is old.
 23 Statute of limitations passed on that.

24 Q. I'm sorry. What are you talking about?

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1 A. Nothing. The HOPE DNC.

2 Q. And you say the McKenzie went to a lot
 3 of trouble to hide it. How did he do that?

4 A. He put the tarp on it.

5 Q. How big is this particular sculpture?

6 A. What?

7 Q. How big is this HOPE sculpture?

8 A. I think it's 8 feet.

9 Q. And so Mr. McKenzie put a tarp on it to
 10 hide it?

11 A. Yep.

12 Q. And that's what you're talking about
 13 when you say he went through a lot of trouble?

14 A. Yes.

15 Q. And these photographs that you had sent
 16 to me of various prints, right --

17 A. Yes.

18 Q. -- do you recognize these?

19 A. That's to show you -- what I'm showing
 20 you was quantity.

21 Q. These are photos that you took when
 22 these prints were packed up and moved to the
 23 Middletown storage facility, right?

24 A. Right. There may have been -- that may

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1 have been to the house. Those may have been to
 2 the house.
 3 Q. Are you saying they put all these
 4 prints in a car at the studio and then drove
 5 over to McKenzie's house and put them in there?
 6 A. Yes.

7 Q. And then weren't they then moved to the
 8 Middletown storage facility?

9 A. Yes.

10 Q. And you assisted with that move to
 11 Middletown, right?

12 A. Yes.

13 Q. I want to double check. Do you need a
 14 break? I think we've gone an hour and a half.

15 THE COURT REPORTER: I'm okay.

16 Q. Mr. Gonzalez, we're to mark the binding
 17 term sheet as Exhibit 13. You're familiar with
 18 this document?

19 (Binding Term Sheet was marked for
 20 identification as Exhibit No. 13.)

21 A. Yes.

22 Q. And going back to what we discussed;
 23 that mediation in Portland in November of 2019,
 24 you were there when this document was signed by

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1 both McKenzie and Mr. Brannan on behalf of the
 2 Estate, correct?

3 A. Correct.

4 Q. Scrolling down, this is back on
 5 November 26, 2019?

6 A. Yep.

7 Q. And you assisted with those
 8 negotiations?

9 A. I -- I assisted -- I was intermediary
 10 between Mr. Lipson and Mr. McKenzie because he
 11 had to be moved from the room. His behavior
 12 had become bizarre.

13 Q. So you would take messages between
 14 McKenzie and Mr. Lipson on behalf of the
 15 Estate?

16 A. Yeah, on behalf of -- on behalf of --
 17 on behalf of McKenzie.

18 Q. I'm sorry. I meant Mr. Lipson was
 19 representing the Estate.

20 A. Yeah. Yeah.

21 Q. And you were --

22 A. We put McKenzie in a room next to the
 23 conference room. I would go out and I would
 24 tell him what his point was, point by point.

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EXHIBIT G - 36¹⁴³

1 Q. Okay.

2 A. And they would call Mr. Simone and then
 3 we sent it to Mr. Simone and Simone marked it
 4 up and you know, we signed it.

5 Q. And you recall that before it was
 6 signed Mr. McLaughlin reminded everyone that it
 7 was binding?

8 A. Yes.

9 MR. FALZONE: Objection.

10 MS. ZERNER: Sorry. I heard -- I
 11 think I heard -- did someone else speak there?

12 MR. FALZONE: I objected.

13 Q. Your answer was yes, Mr. Gonzalez?

14 A. Yes.

15 Q. And as part of the agreement entered
 16 between American Image and the Estate, you
 17 understood that the parties agreed to terminate
 18 the 2008 HOPE Agreement and the arbitration
 19 under that Agreement?

20 MR. FALZONE: Objection.

21 A. Yes.

22 Q. Do you need the question repeated?

23 A. No.

24 Q. Okay. Your answer is yes?

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1 A. Yes.

2 Q. Thank you. At that point once this
 3 agreement was reached, the parties wanted to
 4 end and dismiss the arbitration, right?

5 MR. FALZONE: Objection.

6 Q. Sorry. Mr. Gonzalez?

7 A. I think that was part of the Agreement.

8 Q. Right. Are you referring to the terms
 9 on this Binding Sheet?

10 A. Yes.

11 Q. Well, here's the line in here; "AIA
 12 agrees that the original HOPE Agreement is
 13 terminated", right?

14 A. Right.

15 Q. Is that a yes?

16 A. Yes.

17 Q. And then "the arbitration" -- down here
 18 on this next third bullet point down on the
 19 third page, "the arbitration between the Estate
 20 and AIA pending in the AAA will be dismissed
 21 with prejudice," right?

22 A. Yes.

23 MR. FALZONE: Objection.

24 Q. And from your participation in this,

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1 there were no discussions between the parties
 2 that any disputes arising under this term sheet
 3 would have to then be arbitrated, right?
 4

MR. FALZONE: Objection.

01:32:35PM

5 A. No mention of that at all.

6 Q. After the term sheet was signed did you
 7 speak with anyone from the Star of Hope or from
 8 the Attorney General's Office?

9 A. No.

01:33:00PM

10 Q. During these negotiations, did you
 11 observe the Estate's Counsel or Mr. Brannan
 12 speaking to anyone that you understood to be
 13 from the Star of Hope?

14 MR. FALZONE: Objection.

01:33:22PM

15 A. That's a difficult question because Mr.
 16 Brannan got around, you know, to all the
 17 different rooms, and I'm sure that he, at some
 18 point, went by them, you know.

01:33:41PM

19 Q. Okay. And after this day when this
 20 document was -- this term sheet was executed
 21 and agreed upon, you at that point remained
 22 involved with Mr. McKenzie in the discussions
 23 between American Image Art and the Estate in
 24 attempting to put the Term Sheet Agreement into

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1 a more formal document, right?

2 MR. FALZONE: Objection.

3 A. That he did with Mr. Simone.

4 Q. Okay. And near the end though after
 5 Mr. Simone left did you attend to assist with
 6 that?

7 A. No. No. They -- they don't get it.
 8 I'm not allowed to say anything. He has to do
 9 it. He does everything himself.

01:34:13PM

10 Q. You're talking about Mr. McKenzie?

11 A. Yeah.

12 Q. I just meant that you were aware of
 13 ongoing discussions between American Image Art
 14 and the Estate about the term sheet after that
 15 day in November of 2019?

01:34:33PM

16 A. Yeah.

17 MR. FALZONE: Objection.

01:35:06PM

18 Q. Mr. Gonzalez, you have said in the past
 19 that the Estate and American Image Art could
 20 not draft a new production agreement for the
 21 HOPE art work, correct?

22 A. Correct.

23 Q. And why is that?

24 A. Because the production list was what
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EXHIBIT G - 37 147

1 Robert Indiana articulated in the contract, on
 2 his last contract.
 3 And once he dies, you can't change
 4 that. That's it.

01:35:42PM 5 Q. And you've previously said that it
 6 appeared to you that the Estate was the one
 7 trying to back out of the agreement or change
 8 the terms reached in the Binding Term Sheet,
 9 right?

01:35:55PM 10 MR. FALZONE: Objection.

11 A. I'm sorry. I didn't catch the end of
 12 that question.

13 Q. Sure. You said before that it appeared
 14 to you that the Estate was the one trying to
 15 back out of the Agreement or change the terms
 16 reached in the Binding Term Sheet.

17 MR. FALZONE: And I objected.

18 A. Yeah.

19 Q. What was the answer, Mr. Gonzalez?

01:36:26PM 20 A. I said yes.

21 Q. And you said in the past that it was
 22 the Estate that was the one trying -- excuse me
 23 -- you said in the past that it was the Estate
 24 that actually breached the Binding Term Sheet

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1 by attempting to change the material terms,
 2 right?

3 MR. FALZONE: Objection.

4 A. That's what Mr. Simone said.

01:36:49PM 5 Q. And then you said it yourself, right?
 6 A. I -- I didn't get involved with the
 7 writing or doing anything with regard to that.

8 MR. FALZONE: Objection.

9 A. It was just impossible. You don't get
 10 it. It wasn't rationale. He created this
 11 mess, you know.

12 Q. You had previously testified that
 13 American Image Art made an effort to enforce
 14 the 2019 Binding Term Sheet but the Estate
 15 refused.

16 MR. FALZONE: Objection.

17 A. Yes.

18 Q. And do you recall previously stating
 19 that the accusations of forgery and
 20 unauthorized art work made against McKenzie
 21 harmed his reputation and interfered with his
 22 sales?

23 A. Yes.

24 Q. And I'll show you what was previously
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1 marked as Exhibit 2. Do you see this document
 2 that was previously marked as Exhibit 2 and it
 3 has the caption from the American Arbitration
 4 Association, James Brannan versus Michael
 5 McKenzie, and it's titled Witness Statement,
 6 Declaration of Osvaldo Gonzalez.

01:38:33PM 7 A. Yes.

8 Q. And do you recall making this Witness
 9 Statement?

01:38:48PM 10 A. Yes.

11 Q. And this is another statement that you
 12 made under penalty of perjury?

13 A. Yes.

14 Q. And you authorized your signature on
 15 it?

16 A. Yes.

17 Q. And you understood it was going to be
 18 submitted to the AAA panel as part of the
 19 evidence in that case?

20 A. Yes.

21 Q. And do you recall -- and as you sit
 22 here today -- well, actually, when you signed
 23 this back in -- this is dated May 21st 2021;
 24 you see that?

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01:39:07PM 1 A. Yep.

2 Q. You reviewed this before it was
 3 submitted and signed off on, right?

4 A. Yes.

5 Q. And you believed each of these
 6 statements to be true to the best of your
 7 belief?

8 A. Yes.

9 Q. And does it remain true to the best of
 10 your belief at this time?

11 A. Yes.

12 MR. FALZONE: Objection.

13 Q. And you also sat for a deposition
 14 during the arbitration as well, Mr. Gonzalez?

15 A. Yes.

16 Q. Do you recall that was back last
 17 January we had a day on January 21st where you
 18 answered some questions and then we had
 19 technical problems so we continued the
 20 deposition on January 28th 2021. Do you recall
 21 that?

22 A. Yes.

23 Q. And the Estate's attorneys asked you
 24 questions?

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EXHIBIT G - 38 151

1 A. Yes.

2 Q. And you understood you were under oath
 3 at that time?

4 A. Yes.

5 Q. And did you answer questions on those
 6 dates truthfully during your deposition?

7 A. Yes.

8 Q. All right.

9 MS. ZERNER: Maybe we'll take a
 10 quick 10-minute break.

11 (A recess was taken at 1:40 p.m.)

12 (Resumed at 1:52 p.m.)

13 CONTINUED DIRECT EXAMINATION

14 BY MS. ZERNER:

15 MS. ZERNER: We'll see how this
 16 goes. We're getting feedback. When I speak I
 17 can hear my voice talking over.

18 (Pause.)

19 Q. Mr. Gonzalez, did you register a

20 copyright to an image of *LOVE* with the L O
 21 stacked on top of the V E?

22 A. I can't hear you.

23 MS. ZERNER: Okay. We're back to
 24 this. I don't know how this works.

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1 (Pause.)

2 Q. Did you register a copyright to an
 3 image of *LOVE* with L O stacked on top of V E?

4 A. I have a copyright. Me personally, for
 5 *LOVE3D*, I have that.

6 Q. And is it your personal opinion that
 7 the *LOVE* image is in the public domain?

8 A. Oh, for sure. No doubt about it.

9 Q. And so is it your opinion that Morgan
 10 does not have a copyright or a trademark to

11 *LOVE*?

12 A. They don't have a copyright. A
 13 trademark is being challenged as we speak, so.
 14 But it's in the public domain.

15 Q. And did you express that opinion to Mr.
 16 McKenzie?

17 A. He expressed it to me.

18 Q. And you agreed with him?

19 A. He got it from Mr. Simone.

20 Q. And you agree with that opinion, that
 21 *LOVE* is in the public domain, right?

22 A. Yes, because I know something about
 23 copyrights because I have copyrights.

24 Q. And --

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1 going to go -- I'm just saying to him what
 2 happened here was that I got him to hire the
 3 law firm that was --
 4 Q. Okay. Mr. Gonzalez, I appreciate it.
 5 I just had that question that you already
 6 answered, so I'm going to keep on going also so
 7 that you can get your bike.

8 A. I'll try to catch up.

9 Q. Let's see here; and do you see here on
 10 these e-mail chains there's e-mails from Ed
 11 Boyle on behalf of the Estate and Kevin Lipson.
 12 And this is og@americanimageart.com. Was that
 13 an e-mail that you used at American Image Art?

14 A. Yes.

15 Q. This is in June of 2020.

16 A. Right.

17 Q. After the Binding Term Sheet had been
 18 executed, right?

19 A. Right.

20 Q. And you were involved in some
 21 discussions with the Estate related to that,
 22 correct?

23 A. Yes.

24 Q. And in this e-mail back on June 12,

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1 2020, you're saying to Mr. Lipson, who was an
 2 attorney for the Estate, you're discussing with
 3 them claims about the HOPE copyright, right?

4 A. Right.

5 Q. And you say "I mean all the HOPE
 6 sculptures are copyright claimed by American
 7 Image by its being emblazoned on the signature
 8 plate", right? Did you say yes?

9 A. Yes. Yeah, if you take it over, you
 10 need to do that.

11 Q. Going further down these e-mails,
 12 here's another e-mail from og@americanimageart
 13 to Ed Boyle and Kevin Lipson, copying McKenzie,
 14 regarding the HOPE copyright on June 12th 2020.

15 Do you see this?

16 A. Uh-huh.

17 Q. And do you recall sending this e-mail?

18 A. Yes.

19 (Pause.)

20 Q. And you mention in here what we were
 21 talking about earlier about *LOVE* being in the
 22 public domain, right?

23 A. Right.

24 Q. I'm just moving down through some more

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EXHIBIT G - 40

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1 e-mails.

2 And then this e-mail came in -- you see
 3 here it's dated -- we're on page 20 of the
 4 document, and it's an e-mail from og@og.cool,
 5 right?

6 A. Right.

7 Q. That's another e-mail address of yours?

8 A. Yes.

9 Q. The subject is Term Sheet Clause?

10 A. Right.

11 Q. And you say "this clause was proposed
 12 by the Estate in their proposed Term Sheet,
 13 12/17/2019, violated the Binding Term Contract
 14 signed in mediation", right?

15 A. I don't know which clause he's talking
 16 about.

17 Q. You're talking about it. But you don't
 18 remember what clause you're talking about?

19 A. I don't remember what clause, what that
 20 was.

21 Q. Okay. But you believe you sent this
 22 e-mail?

23 A. Looks like it.

24 Q. Do you have any reason to think that it

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1 wasn't you that sent the e-mail?

2 A. No.

3 Q. Did you have discussions with Michael
 4 McKenzie about off shore lawyers?

5 A. Did I have a conversation with him
 6 about that?

7 Q. Yes.

8 A. Yes.

9 Q. Did you provide him information about
 10 it?

11 A. No.

12 Q. Did you talk --

13 A. Went on Google and looked it up and the
 14 first guy that came up -- he called a few
 15 people. And they were looking in Panama, but
 16 -- so I actually remember telling him he was
 17 crazy and shouldn't do it. They said to him
 18 that --

19 Q. Mr. Gonzalez, are you talking about
 20 attorneys?

21 A. Yeah, I'm talking about the attorneys
 22 telling Michael that --

23 Q. I just want to move on. I'm not asking
 24 you -- sorry. I'm not asking you about Mr.

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1 McKenzie's conversations with his attorneys
 2 about the subject matter. Okay?
 3 A. Okay.
 4 Q. Did you discuss with him before you
 5 left American Image Art how to set up a new
 6 corporation or LLC?
 7 A. I didn't do any of that. He did that.
 8 He hired lawyers that did it.
 9 Q. If you look here we have an e-mail back
 10 on June 25th 2021, from og@ogcool.com and
 11 there's a link sent and the subject is "off
 12 shore lawyers". Did you send this e-mail?
 13 A. Yes.
 14 Q. And then there's one here that's
 15 June 30th 2021 from og@ogcool to McKenzie about
 16 how to start an LLC in New York. Do you see
 17 that?
 18 A. All right.
 19 Q. Did you send that to him?
 20 A. Yes.
 21 Q. And Mr. Gonzalez, you're no longer a
 22 member of the New York Bar, right?
 23 A. No.
 24 Q. And why not?

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1 A. Well, I was suspended and then I
 2 resigned. I resigned during my resig -- I
 3 resigned during my suspension.
 4 Q. And I'll just confirm with you --
 5 MS. ZERNER: I'll mark this as
 6 Exhibit 15.
 7 (Supreme Court Opinion was marked
 8 for identification as Exhibit No. 15.)
 9 Q. This is a Court Opinion from the
 10 Appellate Division in the Second Department of
 11 New York in the matter of Osvaldo J. Gonzalez,
 12 entered on October 10, 2018.
 13 Is this a suspension? Do you recognize
 14 this as the suspension you just referred to?
 15 A. Yes, it does. Yes.
 16 Q. And this says -- the Order says "the
 17 Petitioner and Respondent moved for discipline
 18 by consent requesting the Respondent be
 19 suspended from the practice of law for the
 20 period of three years". Is that correct?
 21 A. Yes.
 22 Q. And as part of this, you stipulated to
 23 these facts as you can see this on the next
 24 part of this?

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EXHIBIT G - 41 163

1 A. Yes.
 2 Q. And then it has a paragraph here under
 3 Findings that says "the Respondent", referring
 4 to you, Mr. Gonzalez, "submitted an affidavit
 5 dated March 27th 2018, wherein he conditionally
 6 admits the facts as set forth in the
 7 Stipulation; two, consents to the imposition of
 8 a three-year suspension; states that his
 9 consent is being given freely and voluntarily
 10 without coercion and duress; and is fully aware
 11 of the consequences of consenting to such
 12 discipline". Is that accurate?
 13 A. Yes.
 14 Q. It also says in the next paragraph that
 15 you recently into a monitoring agreement with
 16 the Lawyer's Assistance Program of the New York
 17 City Bar back in 2018?
 18 A. I did, yes.
 19 Q. How long did that program last?
 20 A. Six months.
 21 Q. Did you complete the program?
 22 A. Oh, no.
 23 Q. And it says next, "Respondent",
 24 referring to you "was issued an Admonition in

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1 1994 for failing to return an unearned fee
 2 after being discharged by his client". Is that
 3 accurate?
 4 A. Yes.
 5 Q. And as part of this Order back in
 6 October of 2018, it Orders that "Gonzalez shall
 7 desist and refrain from 1, practicing law in
 8 any form, either as a principal or agent, clerk
 9 or employee of another; 2, appearing as an
 10 attorney or counselor at law before any Court,
 11 Judge, Justice, Board, Commission or other
 12 public authority; 3, giving to another an
 13 opinion as to the law or its application or any
 14 advice in relation thereto; and 4, holding
 15 himself out as in any way as an attorney and
 16 counselor at law".
 17 You understood that back then when this
 18 was issued?
 19 A. Yes.
 20 MS. ZERNER: I'll just quickly mark
 21 as Exhibit 16 the next Opinion in the Matter of
 22 Osvaldo Gonzalez. This is before the Supreme
 23 Court Appellate Division, Second Department
 24 like the other one. This entered on March 10,

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1 2021. Is this referring to you, Mr. Gonzalez?
 2 A. Yes.
 3 (Supreme Court Opinion was marked
 4 for identification as Exhibit No. 16.)
 5 Q. And over here we have -- it states that
 6 you "admitted and submitted an affidavit sworn
 7 to on December 3, 2019 in support of your
 8 application to resign as an attorney and
 9 counselor at law; that you acknowledge that you
 10 were then currently the subject of an
 11 investigation in connection with the
 12 representation of clients involving allegations
 13 of professional misconduct". Correct?
 14 A. Correct.
 15 Q. And it's this Opinion then that you
 16 were disbarred and stricken from the role of
 17 attorney?

18 A. Yes.
 19 Q. And you understood this paragraph here
 20 that orders like the previous Opinion that you
 21 should "thereafter desist and refrain from
 22 practicing law, appearing as an attorney,
 23 giving to another an opinion as to law or its
 24 application or any advice in relation thereto

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1 and holding yourself out in any way as an
 2 attorney and counselor at law, correct?
 3 A. Correct.
 4 Q. And you understood that at that time
 5 when this Opinion issued?
 6 A. Yes.
 7 Q. And did you talk to McKenzie about the
 8 end of your legal career?
 9 A. Yes.
 10 Q. What did you tell him?
 11 A. What happened was that he -- he Googled
 12 me. He was looking for me and he found my name
 13 and he saw that I had been suspended and he
 14 called me, you know.
 15 And he asked me what I was doing. I
 16 told him I was doing art and he said come up
 17 and we'll talk. And when I got up there and
 18 talked to him -- I let it go a couple months.
 19 And then he, you know -- he said um, I'm
 20 finishing up this case. This case is going to
 21 end, you know. I got it all worked out. And
 22 you could do sales. And I would do the sales,
 23 I have a lot of art. It was a great
 24 opportunity.

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EXHIBIT G - 42 167

1 But it has been destroyed, you know.
 2 Q. And did you discuss your legal career
 3 or how it ended with Annette Vessecchia?
 4 A. Can you -- sorry.
 5 Q. I was moving on. I asked if you
 6 discussed the end of your legal career with
 7 Annette Vessecchia?
 8 A. I don't think so. I think she knew
 9 though. She knew. I'm sure Michael told her,
 10 but I never discussed it with her.
 11 Q. Did you discuss it with Tim Ginexi?
 12 A. I'm sure they both new. He couldn't
 13 possibly keep that a secret.
 14 Q. I'm just talking about what you said to
 15 them.
 16 A. I didn't say nothing to them.
 17 Q. You didn't for Annette. Did you talk
 18 to Tim Ginexi about how your legal career
 19 ended?
 20 A. No.
 21 Q. And I mean, there were problems with
 22 your behavior at American Image Art as well,
 23 right?
 24 A. Huh?

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1 Q. There were problems with your behavior
 2 at American Image Art?
 3 A. No.
 4 Q. You didn't ever harass Annette
 5 Vessecchia?
 6 A. No.
 7 Q. You didn't try to become intimate with
 8 Annette?
 9 A. Annette and I went back and forth.
 10 Used to go for walks. We did a lot of things
 11 together. Whenever Annette had a problem, she
 12 always came to me to console her. It was like
 13 -- you know, but you know -- you know.
 14 Q. Did you ever tell her she was hiding
 15 behind her marriage?
 16 A. Did I ever tell her what?
 17 Q. That she was hiding behind her
 18 marriage?
 19 A. Well, she told me she hadn't had sex
 20 with her husband for 10 years.
 21 Q. I'm asking if you ever told her that
 22 she was hiding behind her marriage?
 23 A. Yes.
 24 Q. Did you tell her she was a eunuch

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1 incapable of love?
 2 A. I may have but -- I said some nasty
 3 things, yeah. Intoxicated text messages, you
 4 know. We always got back, you know.
 5 Q. Did you say that she seems to like
 6 women more than men and she should get a
 7 girlfriend?
 8 A. All she ever did was talk with her
 9 girlfriends, you know.
 10 Q. Did you say that to her?
 11 A. Yes.
 12 Q. Did you say that if she was nicer to
 13 you she would gain everlasting life and her
 14 sins would be forgiven and she would fit in her
 15 high school prom dress?
 16 A. What?
 17 Q. I said did you ever --
 18 A. What was the last part, the very last
 19 part?
 20 Q. That she would fit in her high school
 21 prom dress?
 22 A. Sit in her high school prom dress.
 23 Q. Fit. Fit.
 24 A. Sit?

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1 Q. Fit with an F.
 2 A. Listen, for Annette, her high school
 3 prom dress would be more than she wears
 4 regularly.
 5 Q. You said you've said some nasty things
 6 to her via text or said to her when you were
 7 intoxicated?
 8 A. I have. I have.
 9 Q. And did you get angry with her? Did
 10 you feel like she was leading you on and you
 11 were getting frustrated?
 12 A. I got angry with her, yeah.
 13 Q. I mean, do you consider communications
 14 like that to a co-worker to be harassment?
 15 A. No, I don't. I don't because -- if she
 16 asked me to stop, I would have stopped.
 17 Q. You are saying that she never asked you
 18 to stop?
 19 A. No.
 20 Q. Did you --
 21 A. We had ups and downs like, you know.
 22 Q. Did you break any cell phones before
 23 you left the Katonah property?
 24 A. Break cell phones, no.

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EXHIBIT G - 43 171

1 Q. Did you leave any -- was there any
 2 Indiana art work in the house where you lived
 3 on the Katonah property when you left?
 4 A. Not that I know of, no. Whatever was
 5 there.
 6 Q. Did you take any Indiana art work?
 7 A. Nothing of any significance, you know.
 8 There were some silk screens or some framed art
 9 or --
 10 Q. Did you move any art work before you
 11 left between the time you were terminated and
 12 the time you left in October?
 13 A. What, American Image Art?
 14 Q. Yes.
 15 A. No, never.
 16 Q. Or any -- okay. Do you recall being
 17 contacted -- did Annette reach out to you
 18 because they couldn't find some art work after
 19 you left? She was looking for your input on
 20 where it was?
 21 A. Yes.
 22 Q. Did you respond to her?
 23 A. I think so. I think I told her where
 24 it was.

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1 Q. Where was it?
 2 A. It was in the house, in the barn.
 3 Q. Do you recall what art work we're
 4 talking about?
 5 A. I think we're talking about the 10 and
 6 a half inch silk screens that were, you know,
 7 the subject of the stenciling.
 8 Q. One more thing; during any of the
 9 breaks we took today, did you speak with anyone
 10 about your testimony?
 11 A. No.
 12 Q. Okay.
 13 MS. ZERNER: That's all my
 14 questions. Mr. Nikas, are you asking
 15 questions?
 16 MR. NIKAS: I do.
 17 CROSS EXAMINATION
 18 BY MR. NIKAS:
 19 Q. Good afternoon, Oz. I'll try to be as
 20 brief as I can. I know you need to get your
 21 bike.
 22 A. My bike, you know.
 23 Q. So toward the end of your testimony,
 24 Ms. Zerner asked you about conversations

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1 between Michael McKenzie and various lawyers
 2 that you overheard. Do you recall being asked
 3 those questions?

4 A. Yeah.

02:35:02PM 5 Q. Now, without telling us yet what you
 6 overheard, was it your understanding based on
 7 the content of those phone calls that Mr.
 8 McKenzie was communicating with those lawyers
 9 for the purpose of committing a fraud or a
 10 crime by concealing art work from the Court or
 11 from the other parties in this case?

12 MS. ZERNER: Objection.

13 A. Absolutely.

02:35:39PM 14 MR. NIKAS: Bridget, do you intend
 15 to assert privilege over the contents of all of
 16 those conversations McKenzie had with those
 17 lawyers?

02:35:50PM 18 MS. ZERNER: We -- this is -- all
 19 these attorneys that he's claiming he called
 20 about handling the art work, give me a quick --
 21 if you all stay on, I'll resolve this in one
 22 moment. Thanks.

23 (A brief recess was taken.)

24 MS. ZERNER: I have conferred with
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1 me client and he does assert a privilege to
 2 calls he made to attorneys at that time.

3 Did we lose Luke?

4 MS. BANKS: He will be back on in a
 5 moment. Sorry about that.

6 (Pause.)

7 (Attorney Nikas rejoins Zoom.)

02:44:48PM 8 MS. ZERNER: I spoke with my client
 9 and he does assert his privilege to
 10 communications with attorneys this past summer
 11 related to his business and personal matters.
 12 He's not waived it, and so we object to any
 13 disclosure of those communications.

02:45:02PM 14 MR. NIKAS: Okay. We'll confer
 15 after this deposition about the Motion to
 16 Compel we intend to file as well as re-opening
 17 this deposition, but for now I won't ask those
 18 questions.

19 MS. ZERNER: Thank you.

02:45:12PM 20 Q. Mr. Gonzalez, at the beginning of your
 21 deposition, Ms. Zerner asked you a lot of
 22 questions about the horrible way in which
 23 McKenzie treated you. Do you recall generally
 24 those questions?

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EXHIBIT G - 44 175

1 A. Yes.

2 Q. And she also asked you quite a few
 3 questions about the way in which McKenzie
 4 conducted his business where you testified,
 5 generally speaking, that McKenzie had hidden
 6 art, engaged in forgery and generally was a
 7 nightmare to work with, among other things. Do
 8 you recall that testimony?

9 A. Yes.

10 Q. She then asked you whether you resented
 11 McKenzie and you said yes. Do you remember
 12 that?

13 A. Yeah.

14 Q. Do you think there's anything wrong
 15 with resenting someone for -- who you believe
 16 may have engaged in criminal behavior?

17 A. No, I think he -- he is entitled to a
 18 proportion of resentment that comes with what
 19 you do when you do what he did.

20 Don't tell me that you got 30 million
 21 dollars in art and you're taking this 30
 22 million dollars in art and you're going to hide
 23 it, right, so nobody can get at it. And then
 24 you're going to shut down your studio and all

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1 the time that I spent trying to get into, you
 2 know, into the position of selling art, it's
 3 just blown up because he got greedy and wanted
 4 to rob the Estate and the Star of Hope. It's
 5 outrageous. The greed is just outrageous.
 6 It's one of those American Greed episodes, you
 7 know.

8 Q. And do you think it's reasonable to
 9 resent someone who has conducted themselves
 10 that way?

11 A. Pardon me? Sorry?

12 Q. Sure. Do you think it's reasonable to
 13 resent somebody who has conducted themselves in
 14 that way?

15 A. No, I don't think so. I mean, there's
 16 all levels of resentment. You know, the French
 17 have "Presumptive Lon" {phonetic}, a general
 18 malaise that the French people occasionally
 19 fall into. So -- I don't think it's -- it
 20 wasn't a big -- that big a deal to me. It was
 21 a big deal. I mean, he's awful. He's really
 22 horrible the way he treats people.

23 But like I'm a big boy. I've been
 24 around. I was taking the shots. I don't hear
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1 well, so that helps a lot. I'm deaf in my
 2 right ear so I only heard some of it.
 3 Q. Have you told the truth today in your
 4 deposition about your view that McKenzie has
 5 engaged in criminal behavior? Did you tell the
 6 truth about that?

7 A. I think so. I mean, absolutely.
 8 Q. Have you told the truth --
 9 A. The stuff the trust funds and then all
 10 that stuff, he was way out there with that.
 11 And don't forget that at that point, you know,
 12 it's -- he's not waiting to negotiate. He's
 13 not waiting for a decision from AAA.
 14 He's doesn't care what's happening in
 15 the District Court in Maine or in the Appellate
 16 Court there. He doesn't care about any of
 17 that. It's over. He just grabbing the art and
 18 he's running. That's it. That's what
 19 happened.

20 Q. When you testified about your view that
 21 Mr. McKenzie forged art work and had hidden
 22 art, were you telling the truth in your
 23 testimony?

24 A. Yeah. Like I said, putting stencils of
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1 2015 on art works in 2021 -- all right. If
 2 that's not -- if that's not a problem, then
 3 it's not a problem.
 4 Q. Did Michael McKenzie --
 5 A. And then -- you have all the stuff that
 6 he's created there; hundreds and hundreds of
 7 stuff. But I'm sure that the production
 8 listing didn't provide for all that. It
 9 provided for something entirely different. It
 10 didn't provide for 500 Four Seasons of HOPE.
 11 You know what I mean?

12 And then he was going to claim that
 13 American Image Art was a true beneficiary of
 14 the Robert Indiana art world, and he was going
 15 to claim that the Morgan Foundation were
 16 swindlers and fraudsters.

17 Q. Mr. Gonzalez, if you could take a look
 18 at the declaration that you signed. It's been
 19 marked as Exhibit 1 in this deposition.

20 A. I'm familiar with it, yeah.

21 Q. I'm going to have Haley put it up on
 22 the screen. Take a quick look.

23 (Pause.)

24 Q. Mr. Gonzalez, can you see that on the
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EXHIBIT G - 45 179

1 screen, your declaration?

2 A. Yes.

3 Q. At the bottom of the declaration toward
 4 the end please, Haley, it says in paragraph 19
 5 "I have read this document more than once very
 6 carefully. Every statement in this document is
 7 completely truthful and accurate".

8 Do you see that?

9 A. Yes.

10 Q. Sorry. You --

11 A. I said yes.

12 Q. Okay. Now, if you could take a look at
 13 your document for me, just start to finish, and
 14 if you could confirm for us that everything in
 15 this declaration is true to the best of your
 16 knowledge and belief, other than the fact that
 17 we know you've moved to Puerto Rico and so your
 18 address would not be the same.

19 But if you could look at the

20 declaration for us and --

21 A. I did that already before. And -- and
 22 it's -- it's what I said and is what I meant.
 23 I reviewed the whole thing.

24 Q. Everything in this document is correct?

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1 A. Yes. Yes.

2 Q. Thank you.

3 A. Yes.

4 Q. Now, Mr. McKenzie has, you say in your
 5 declaration, moved art work both on his
 6 property and then to a storage facility in
 7 Middletown. Do you recall giving information
 8 about that?

9 A. Yes.

10 Q. Now, the first visit that I made to
 11 Michael McKenzie's property with some other
 12 individuals was on May 25th 2022 [sic],
 13 correct?

14 A. Yeah.

15 Q. Okay. Now, when we arrived on
 16 McKenzie's property, do you recall that we were
 17 instructed to look at the art work in Mr.
 18 McKenzie's two floor studio?

19 A. Sorry?

20 Q. Did you hear the question?

21 A. Yeah.

22 Q. And I didn't hear -- you froze.

23 A. Can you give me the question again?

24 Q. Sure. Sure. So when we arrived at
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1 McKenzie's property in May of 2021, do you
 2 recall that we were shown to the two floor
 3 studio and told that's where the art work was
 4 located?

02:57:06PM 5 A. Yes.

6 Q. And do you recall that we looked on the
 7 first floor of the studio and the second floor
 8 of the studio?

9 A. Yes.

02:57:16PM 10 Q. And do you recall that there were art
 11 handlers there opening boxes and cataloguing
 12 art?

13 A. Yes.

14 Q. At the time of that inspection was
 02:57:29PM 15 there art work located in Mr. McKenzie's house
 16 that was by Robert Indiana?

17 A. Yes.

18 Q. Was it located in his basement?

19 A. Yes. It had been finished to house the
 02:57:50PM 20 collection.

21 Q. Now, was there also art work by Robert
 22 Indiana or purported to be by Robert Indiana
 23 that Michael McKenzie had moved to wooden racks
 24 outside behind one of the buildings on his

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1 property?

2 A. What? That doesn't sound right. Give
 3 me that one more time. That sounded a little
 4 strange.

02:58:18PM 5 Q. Sure. Let's do it this way.

6 MR. NIKAS: Haley, if you could put
 7 up Tab 7, please. It's a picture of wooden
 8 racks or shelves.

9 Q. Mr. Gonzalez, do you see these wooden
 02:58:41PM 10 shelves?

11 A. I see, yeah. I know what that is. I
 12 know what that is. Ask me what you want about
 13 that.

14 Q. Sure. Did Mr. McKenzie before the
 02:58:52PM 15 May 25, 2021 inspection, move art work out of
 16 his studio onto those wooden shelves so the art
 17 work would not be seen by Morgan Art
 18 Foundation?

19 A. Um, it was slightly different.

20 Q. Sure. Tell me what you remember.

21 A. That art work was moved and because
 22 there was a lot of stuff, but it was all flat
 23 like I showed you, it was stacked. So we were
 24 able to stack it on top of the flat files so

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EXHIBIT G - 46 183

1 for that inspection, it was all over there.

2 Q. So McKenzie had the large stack of art
 3 work moved to these racks out of the studio
 4 before the May inspection; is that right?

5 A. No. No. Those wooden racks, right,
 6 are a different story. This is the story on
 7 the wooden racks.

8 Q. Okay.

9 A. Those racks were created by Michael
 03:00:10PM 10 McKenzie to house his art collection, but in
 11 order to fit them up in Middletown, they had to
 12 be taken apart and put back together again.

13 And the carpenter's came in and they
 14 did that, you know, but it had nothing to do
 03:00:33PM 15 with the -- the second inspection now, he was
 16 trying to get everything out, you know what I'm
 17 saying.

18 And those shelves were then moved out
 19 of the house and moved up to the Middletown
 20 storage facility.

21 Q. So before the first inspection when you
 22 said that McKenzie had Robert Indiana art work
 23 stored in his house in the basement, was that
 24 -- was that art work stored on these wooden

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1 racks?

2 A. Yes.

3 Q. Okay. And other than McKenzie's house
 4 in the basement where all of the art work you
 5 just described was stored on these racks, were
 6 there other -- was there other art work on the
 7 property that was not shown to Morgan Art
 8 Foundation?

9 A. Most of it was there in the basement.

10 There was 500 books of Alphabet and the metal
 11 jackets. Did you see those?

12 Q. We did not see those art works in the
 13 studio. Were those hidden in Mr. McKenzie's
 14 basement?

15 A. Yeah, there were special racks made for
 16 them all of the way down one side and up the
 17 other; two, upper and lower stacked side by
 18 side so you know, to house the Alphabet
 19 collection.

20 Q. And during the inspection in May of
 21 2021, you never heard anyone say to me or to
 22 Morgan Art Foundation that McKenzie had a whole
 23 collection of art work in his house, did you?

24 A. No they must have forgotten to mention
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1 that to you.
 2 MR. NIKAS: Now, Haley, if you
 3 could put up at that tab 8, please.
 4 Q. Mr. Gonzalez, do you see this
 03:02:58PM 5 photograph on the page?
 6 A. Okay. Yeah.
 7 MR. NIKAS: What exhibit are we at
 8 now? 17?
 9 MS. ZERNER: 17.
 03:03:25PM 10 MR. NIKAS: I'm going to mark the
 11 wooden rack as 17 and this photograph which is
 12 MAF 60229, I'm marking it as Exhibit 18.
 13 (MAF 60248 document was marked for
 14 identification as Exhibit No. 17.)
 03:03:31PM 15 (MAF 60229 document was marked for
 16 identification as Exhibit No. 18.)
 17 MR. NIKAS: Haley, can you give us
 18 the bates for 17.
 19 MS. BANKS: Sorry. You want the
 03:03:55PM 20 bates number for 7?
 21 MR. NIKAS: Yes.
 22 MS. BANKS: MAF 60248.
 23 Q. Mr. Gonzalez, did you take this
 24 photograph?
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EXHIBIT G - 47 187

1 it was one of the back shelves in the back.
 2 You know, there were rooms and I can tell
 3 that's in the back. There's a lot of stuff.
 4 Those are all --
 03:06:08PM 5 Q. This is McKenzie's basement or
 6 somewhere else?
 7 A. That's in the basement.
 8 Q. And that's the area that was not shown
 9 or disclosed to Morgan before that May
 03:06:20PM 10 inspection, correct?
 11 A. Yes. Correct.
 12 Q. Okay.
 13 MR. NIKAS: Haley, if you could put
 14 up Tab 10, please, MAF 60231.
 15 (MAF 60231 document was marked for
 16 identification as Exhibit No. 20.)
 17 Q. Mr. Gonzalez, is this another
 18 photograph similar to the photograph we showed
 19 you a few minutes ago?
 03:06:45PM 20 A. Yes.
 21 Q. And you took this photo?
 22 A. Yes.
 23 MR. NIKAS: Haley, if you could
 24 show Tab 11, please.
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1 A. Yes.
 2 Q. If you could scroll up -- where are
 3 these works located in the picture? Are they
 4 in McKenzie's basement or someplace else?
 03:04:21PM 5 A. Right there, you can see the studio.
 6 Q. And were those art works moved out of
 7 the studio before the inspection?
 8 A. Yeah. Yeah.
 9 MR. NIKAS: Haley, if you could put
 03:04:39PM 10 up Tab 9, please.
 11 (Pause.)
 12 MR. NIKAS: I'll mark this as
 13 Exhibit 19.
 14 (MAF 60230 document was marked for
 03:05:08PM 15 identification as Exhibit No. 19.)
 16 A. I see it. I know what it is.
 17 Q. Mr. Gonzalez, what is this a picture
 18 of?
 19 A. Those, I believe, are HOPE works.
 03:05:35PM 20 Well, I think they are HOPE works. Some kind
 21 of Robert Indiana work.
 22 Q. Where were they? Where were they
 23 located in this picture?
 24 A. That's -- what you're looking at there,
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1 (MAF 60232 document was marked for
 2 identification as Exhibit No. 21.)
 3 Q. Mr. Gonzalez, is this another
 4 photograph of Robert Indiana art work that
 03:07:29PM 5 Michael McKenzie kept in his basement?
 6 A. Yes.
 7 Q. And this was in his basement during the
 8 May inspection; is that right?
 9 A. Yes. Yes.
 03:07:42PM 10 MR. NIKAS: If you could put up tab
 11 12, Haley. I'm going to mark this document as
 12 Exhibit 22.
 13 (MAF 60233 document was marked for
 14 identification as Exhibit No. 22.)
 03:08:03PM 15 Q. Mr. Gonzalez, is this a photograph of
 16 art work purported to be by Robert Indiana that
 17 Michael McKenzie kept in his basement?
 18 A. Yes.
 19 Q. And this art work was located in Mr.
 20 McKenzie's basement during the May inspection,
 21 correct?
 22 A. Yes.
 23 MR. NIKAS: Haley, if you could
 24 please put up tab 13. I'm marking this
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1 document as Exhibit 23, MAF 60234.
 2 (MAF 60234 document was marked for
 3 identification as Exhibit No. 23.)
 4 Q. Mr. Gonzalez, is this another
 5 photograph you took of art work purportedly by
 6 Robert Indiana that Michael McKenzie kept in
 7 his basement at the time of the May inspection?
 8 A. Yes.

9 Q. Thank you.
 10 MR. NIKAS: Haley, if you could put
 11 up tab 14, please. I'm marking as Exhibit 24,
 12 a document bates stamped MAF 60235.

13 (MAF 60235 document was marked for
 14 identification as Exhibit No. 24.)

15 Q. Mr. Gonzalez, is this another
 16 photograph you took of art work purportedly by
 17 Robert Indiana that Michael McKenzie kept in
 18 his basement at the time of the May inspection?
 19 A. Yes.

20 MR. NIKAS: If you could put up tab
 21 15, please, Haley. Marking as Exhibit 25, a
 22 document bates stamp MAF 60236.

23 (MAF 60236 document was marked for
 24 identification as Exhibit No. 25.)

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1 Q. Mr. Gonzalez, is this another
 2 photograph you took of art work purportedly by
 3 Robert Indiana that Michael McKenzie kept in
 4 his basement around the time of the May 2021
 5 inspection?

6 A. Yes.
 7 MR. NIKAS: If you could put up tab
 8 16, Haley. Marking as Exhibit 26, MAF 60237.

9 (MAF 60237 document was marked for
 10 identification as Exhibit No. 26.)

11 Q. Mr. Gonzalez, is this another
 12 photograph you took of art work purportedly by
 13 Robert Indiana that Michael McKenzie kept in
 14 his basement when the May 2021 inspection
 15 occurred?

16 A. Yes.
 17 MR. NIKAS: You can put up tab 17,
 18 Haley. Marking as Exhibit 27, MAF 60238.

19 (MAF 60238 document was marked for
 20 identification as Exhibit No. 27.)

21 Q. Mr. Gonzalez, is this another
 22 photograph you took of art work purportedly by
 23 Robert Indiana that Michael McKenzie kept in
 24 his basement at the time of the May 2021

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EXHIBIT G - 48 191

1 inspection?
 2 A. Yes.
 3 Q. Do you see the wooden shelf that the
 4 art work is stored on top of?
 5 A. Yes.
 6 Q. Is that the same wooden shelf that you
 7 just described earlier that Michael McKenzie
 8 had deconstructed and then reconstructed behind
 9 a building on his property?

10 A. The same wood.
 11 MR. NIKAS: Haley, if you could
 12 please put up at tab 18. Marking this as
 13 Exhibit 28.

14 (MAF 60239 document was marked for
 15 identification as Exhibit No. 28.)

16 Q. Mr. Gonzalez, is this another
 17 photograph you took of art work purportedly by
 18 Robert Indiana that Michael McKenzie kept in
 19 his basement during the May 2021 inspection?

20 A. Yes.
 21 MR. NIKAS: You can put up tab 19,
 22 Haley. Marking as Exhibit 29, MAF 60240.

23 (MAF 60240 document was marked for
 24 identification as Exhibit No. 29.)

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1 Q. Mr. Gonzalez, is this another
 2 photograph you took of art work purportedly by
 3 Robert Indiana that Robert McKenzie kept in his
 4 basement during the May 2021 inspection?

5 A. Yes.
 6 MR. NIKAS: If you could put up
 7 tab 20, Haley. Marking as Exhibit 29 -- did I
 8 get that right? MAF 60241.

9 THE COURT REPORTER: I think this
 10 is 30.

11 MR. NIKAS: 30, you're right.
 12 (MAF 60241 document was marked for
 13 identification as Exhibit No. 30.)

14 Q. Mr. Gonzalez, this is a photograph of
 15 the first floor of the studio at Michael
 16 McKenzie's property, correct? Can you hear me,
 17 Oz?

18 A. Yes. Yes, it is.
 19 Q. You said yes, it is a photograph of the
 20 first floor studio?

21 A. Yes.
 22 Q. Do you recall that when I arrived with
 23 Morgan Art Foundation --
 24 A. That last picture may be in the

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03:13:10PM

1 basement.

2 Q. May be in the basement?

3 A. Yeah. Yeah, it's in the basement. I
4 can see out the window. You see out the
5 window?

6 Q. Okay. And this art work was not shown
7 to Morgan Art Foundation during its May 2021
8 inspection, correct?

9 A. Right.

03:13:23PM

10 Q. Thank you.

11 MR. NIKAS: Haley, if you could put
12 up tab 21, please. Marking as Exhibit 31, MAF
13 60228.

03:13:39PM

14 (MAF 60228 document was marked for
15 identification as Exhibit No. 31.)

03:13:53PM

16 Q. Mr. Gonzalez, this is another
17 photograph of art work you took purportedly by
18 Robert Indiana that McKenzie kept in his
19 basement during the May 2021 inspection,
20 correct?

21 A. Yes.

22 Q. Mr. Gonzalez, after the May 21st
23 inspection, you have come to learn that the
24 Court issued an Order requiring McKenzie to let

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03:14:24PM

1 Morgan Art Foundation inspect the property in
2 early August. Do you recall that?

3 A. Yes.

03:14:43PM

4 Q. And the Order was issued on June 29,
5 2021. Does that date ring a bell?

6 A. Yes.

03:14:43PM

7 Q. Now, after the June 29, 2021 Order, Mr.
8 -- did Mr. McKenzie take steps to move art work
9 off the property that Morgan Art Foundation had
10 not seen?

11 A. Yes.

12 Q. Okay.

13 A. All of it.

03:14:52PM

14 MR. NIKAS: Haley, if you could put
15 up tab 23, please.

16 A. How many pieces are there?

03:15:09PM

17 Q. Mr. Gonzalez, do you see that truck in
18 front of --

19 A. Yes.

03:15:09PM

20 Q. Is that a moving truck?

21 A. It's a bus. It's called the art bus.

22 Q. Did Michael McKenzie use the art bus
23 pictured here to take art work off the property
24 that Morgan had not seen?

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1 A. Yes.

2 MR. NIKAS: I'm marking as
3 Exhibit 32 document bates stamped MAF 60249.
4 (MAF 60249 document was marked for
5 identification as Exhibit No. 32.)

6 Q. And did he use this art truck, as
7 McKenzie calls it, to --

8 A. We also rented some big 16-foot trucks.

9 Q. I'll get to that in just a moment.

10 When you said that McKenzie used this art truck
11 to move art work off the property that Morgan
12 had not seen at the first inspection, you --
13 did he use this truck after the Court Order in
14 order to move art work off the property?

15 A. Yes.

16 MR. NIKAS: Haley, if you could
17 please show us tab 26. I'm marking as
18 Exhibit 33 a document that does not have a
19 bates stamp, but it's an e-mail dated Sunday,
20 July 4, 2021, at 8:14 p.m. It's from Michael
21 McKenzie to vessecchia@mac.com,
22 tginexi@aol.com, og@americanimageart.com and
23 then another Michael McKenzie e-mail, the same
24 as the "from" line.

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1 In this e-mail, Mr. Gonzalez, Michael
2 McKenzie writes on July 4th, just a week after
3 the Court Order, "we will meet at 8 a.m. I
4 will have a bus in front of the house. We will
5 go up 22, fill up diesel fuel, then stop at
6 Home Depot to pick up ten sets of metal
7 shelves. See ya then". Do you see that?
8 (E-mail without Bates Stamp was
9 marked for identification as Exhibit No. 33.)

10 A. Yes, I see it.

11 Q. Did Michael McKenzie need metal shelves
12 in order to store art work he intended to move
13 off the property?

14 A. Yes. I don't know if he used them but
15 he bought them.

16 MR. NIKAS: Haley, if you could
17 scroll down, please, in that e-mail. There's a
18 July 5th e-mail as well. It's probably a
19 different document. Go to tab 27.

20 MS. ZERNER: Do you want to mark
21 this e-mail as Exhibit 33.

22 MR. NIKAS: So I'm going to mark
23 Exhibit 33 as the document that did not have a
24 bates stamp. If you could put up tab 27.

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1 MS. BANKS: This is tab 27 now.
 2 MR. NIKAS: I'll mark this as
 3 Exhibit 34, another e-mail that did not have a
 4 bates stamp. It's from pjrlicense@aol.com to
 5 tginexi@aol.com, vessecchia@mac.com and
 6 og@americanimageart.com July 5th 2021 at 10:13
 7 p.m.

8 (E-mail with no Bates Stamp was
 9 marked for identification as Exhibit No. 34.)

03:18:33PM 10 Q. Again, Mr. Gonzalez, this is an e-mail
 11 sent that you received on July 5th. It states
 12 "given how long it took, I think starting at 8
 13 a.m. Again, hopefully finish packing by 10:30.
 14 Get there at 12. Assemble the shelves and be
 15 done by 2". Do you see that?

16 A. Yeah, I see it.

17 Q. Who wrote this e-mail?

18 A. He did, Mr. McKenzie.

19 Q. Did Michael --

03:19:20PM 20 A. That's his e-mail address.

21 Q. Michael McKenzie uses the pjrlicense
 22 e-mail address?

23 A. Yep.

24 Q. Now, do you know how --

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1 A. When he worked for Johnson.
 2 Q. Do you know how he accesses that e-mail
 3 address, Mr. Gonzalez?
 4 A. I think it's on his laptop, on his AOL
 5 account.

03:19:47PM 6 Q. Are you aware that Mr. McKenzie did not
 7 search for e-mails that were sent or received
 8 from and to that e-mail address during the
 9 course of this litigation?

10 MS. ZERNER: Objection.

11 A. I don't -- I don't know that to be a
 12 fact, no.

13 Q. When Mr. McKenzie writes "given how
 14 long it took, I think starting at 8 a.m." --
 03:20:08PM 15 what was he referring to when he says "given
 16 how long it took"?

17 A. It may have been there was an earlier
 18 -- another trip the day before.

19 Q. When he refers to the "it", how long
 20 "it" took, is he talking about moving art work
 21 off the property after the Court Order?

22 A. Yeah. Yep. Yeah, yeah.

23 Q. And when he says that again, "hopefully
 24 finish packing"; what are you all packing? Art

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EXHIBIT G - 50 199

1 work that he wants moved off the property?

2 A. Yes.

3 Q. He says "assemble the shelves and be
 4 done by 2". Why was he instructing you to
 5 assemble shelves?

6 MS. ZERNER: Objection.

7 A. To reassemble the shelves so they could
 8 be used in -- we sized them so we could use
 9 them in Middletown.

03:20:56PM 10 Q. Were those the shelves from the
 11 basement?

12 A. Yes.

13 Q. And did that also include the metal
 14 shelves that he had purchased at Home Depot
 15 that were --

16 A. You know, we went there and he bought
 17 those metal shelves, but I think they are still
 18 all stacked up in one of those containers. I
 19 don't think we really used them, you know.

03:21:07PM 20 Q. But you used the wooden shelves?

21 A. Yeah, we pretty much got the whole
 22 thing up there. I think we got four,
 23 five pieces of shelving up and down

24 Q. Now, you talk in your declaration about
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1 moving the art so we don't need to go into
 2 detail there, but I do want to move forward a
 3 few weeks?

4 MR. NIKAS: Haley, if you could put
 5 up tab 28, please. This is an e-mail without a
 6 bates stamp. I'll mark this as Exhibit 35.

7 It's an e-mail from pjrlicense@aol.com.

8 Q. You've identified that as Michael
 9 McKenzie's e-mail address to tginexi@aol.com,

03:21:38PM 10 og@americanimageart, and vessecchia@mac.com
 11 sent July 21st 2021 at 10:15 p.m. You see this
 12 e-mail?

13 (E-mail dated July 21, 2021 was
 14 marked for identification as Exhibit No. 35.)

15 A. Yep.

16 Q. And you received this e-mail?

17 A. Yeah. In this e-mail he's telling Tim
 18 -- he's the first one -- he's telling Tim to
 19 bring down 20 portfolios that I guess he's

03:23:02PM 20 going to give to Greg Allen. They are big.
 21 The portfolios are very big, 36 x 48. There
 22 are like four different silk screens in it, so
 23 20 of those portfolios is like a big deal, you
 24 know.

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1 Q. This says "truck is at studio. I need
2 to bring down another 20 portfolios before we
3 leave for storage".

03:23:33PM 4 And just so I understand you, you're
5 saying that Mr. McKenzie was instructing Tim to
6 bring down 20 portfolios of art work?

03:23:48PM 7 A. On the second floor to the first floor,
8 so I guess Greg Allen could come pick it up
9 from the first floor.

10 MS. ZERNER: Objection to the
11 question. I didn't think Mr. Nikas finished
12 his question so I was waiting for that. But
13 for the record, objection.

03:24:02PM 14 Q. Is this art work that was hidden from
15 Morgan Art Foundation in the first inspection?

16 MS. ZERNER: Objection.

03:24:28PM 17 A. Um, I think those were there on the
18 second floor when you came the first time. I
19 think you saw -- those were there in the second
20 floor on the first trip. I think they were
21 still there.

22 Q. This is from the studio?

23 A. Yes, the second floor of the studio.

24 They were there. Those portfolios were there.

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1 I think he recorded that too, you know.

2 Q. And Mr. McKenzie was none the less
3 moving 20 portfolios off the property to --

03:24:58PM 4 A. I think if I had to guess, I would say
5 he would give them to Greg Allen.

03:25:18PM 6 Q. Let me just finish the question. What
7 I'm asking is Mr. McKenzie was moving this art
8 work off the property after the Court Ordered
9 inspection and before Morgan showed up for that

10 August 5th second inspection date, correct?

11 A. I'm just trying to say that I think
12 those 20 pieces were already in the studio.
13 They didn't go anywhere. He didn't do anything
14 nefarious with them other than give them to

03:25:38PM 15 Greg Allen and they were going to disappear.

16 Q. And you never heard Mr. McKenzie say
17 that he was moving art work out of the studio
18 -- withdraw that.

03:25:56PM 19 You never heard Mr. McKenzie tell
20 Morgan that he was moving art work off the
21 property before that August 2021 inspection,
22 did you?

23 MS. ZERNER: Objection.

24 A. No. No. He never said that.

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EXHIBIT G - 51 203

1 Q. Did Mr. McKenzie feel like he was being
2 invaded by Morgan's second inspection?
3 MS. ZERNER: Objection.

4 A. Um, I think he felt invaded by
5 anything. No matter what you said, it was --
6 everything was an invasion. Just the fact that
7 you wanted inventory at all was a problem, you
8 know.

9 Q. Did McKenzie ever tell you that he was
10 angry or pissed off about this Court Order
11 requiring him to allow Morgan on the property?

12 (Laughter.)

13 A. Absolutely. He went off on that.

14 Q. What did he say?

03:27:04PM 15 A. Nothing. Just said what he says, you
16 know, they're thieves, scumbags and blah, blah,
17 blah. He would go on and on like that; a
18 string of profanities. You know, he was really
19 obsessed with the -- with the idea of the
20 inventory.

21 Don't forget that this guy can't let
22 anybody see the inventory because then you're
23 going to know what he has. You're going to say
24 how the hell did you get all this.

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1 Then in the future when he tries to
2 sell it, he could only sell the pieces that
3 have been verified by you. And then you're
4 going to not let him verify everything that he
5 wants to do, so he decided that he wasn't going
6 to do it at all.

7 Q. Did he tell you --

8 A. You were never going to inventory, get
9 a straight answer on the inventory. Never
03:28:16PM 10 gonna happen. All these negotiations and all
11 that stuff about 5 million, 3 million, it's all
12 nonsense. Wasn't even like remotely possible
13 or close.

14 Q. Did Michael McKenzie ever tell you
15 that; that we were never going to get --

16 A. Absolutely. Absolutely.

17 Q. He told you that we were not going to
18 get a straight inventory?

19 A. In everything he did, he said it.

03:28:55PM 20 MR. NIKAS: If you could, Haley,
21 please put up tab 30. We'll mark that as 36.
22 It's an 11 page document.

23 (11 page document was marked for
24 identification a Exhibit No. 36.)

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1 **Q.** This is an e-mail from you, Mr.
 2 Gonzalez, to John Markham, Bridget Zerner,
 3 Kevin Lipson and Maaren Shah; do you see that?
 4 **A.** Right.
 03:29:35PM **Q.** It's dated December 16, 2021.
 6 **A.** Correct.
 7 **Q.** And then you describe in the e-mail an
 8 exchange or a number of exchanges Mr. McKenzie
 9 had with Ms. Cyphers, Peggy Cyphers. Do you
 03:29:57PM **see that?**
 10 **A.** Yes.
 11 **Q.** Is everything that you wrote in this
 12 e-mail truthful?
 13 **A.** Yes, only that I minimized it.
 03:30:07PM **Q.** How did you minimize it?
 14 **A.** Because like what he said was a lot
 15 like, you know, more grotesque than what is
 16 expressed in this e-mail.
 17 **Q.** What Mr. McKenzie expressed was even
 18 more grotesque than what you described in this
 19 e-mail? Is that what you just said?
 20 **A.** Yeah, the way he talks. The way he
 21 talks. He's like fantastically abusive.
 22 **Q.** Now --

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1 **A.** I've heard him say -- we'll get dinner
 2 in the back and he'd jump off the table and
 3 start pointing at Peggy and telling her to shut
 4 her fucking mouth. Just shut the fuck up.
 5 Shut it, you fuck. You know, 6 inches from her
 6 face in front of all our guests. All right?
 7 That's the kind of guy he is, you know. It's
 8 crazy, crazy stuff.
 9 **Q.** Mr. Gonzalez, you described how after
 10 you had revealed Mr. McKenzie's misconduct, he
 11 had both reported you to the police and then
 12 reported you to the Lawyers Fund. Do I recall
 13 that correctly?
 14 **A.** Yes.
 03:31:51PM **Q.** Before you had provided information
 16 about Mr. McKenzie's conduct, did he ever
 17 accuse you of committing crimes?
 18 **A.** No.
 19 **Q.** Did he ever accuse you of the unlawful
 20 practice of law before you had come out and
 21 told what Mr. McKenzie was doing?
 22 **A.** No.
 23 **Q.** Did he ever say to you that he thought
 24 you were his lawyer?

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EXHIBIT G - 52 207

1 **A.** No.
 2 **Q.** So --
 3 **A.** He hired seven, eight different law
 4 firms.
 03:32:31PM **Q.** So is it accurate to say that the very
 6 first time Michael McKenzie ever made an
 7 accusation that you had committed a crime was
 8 after you reported the series of events to me
 9 and the Estate of Robert Indiana?
 03:32:53PM **A.** Yes.
 11 **MS. ZERNER:** Objection.
 12 **A.** But further, he told the Lawyers Fund
 13 that the first time he had heard about my being
 14 suspended was on August 17th or something,
 15 2021.
 16 But like I said, you know, the fact
 17 that I was suspended came out in one of the
 18 depositions where I was questioned about it.
 19 All right?
 03:33:43PM **A.** He knew about it, you know. So the lie
 21 that he told about not knowing that I had been
 22 suspended was done just so he could collect the
 23 money from the Lawyers Fund. It's just a fraud
 24 on the Lawyers Fund.

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1 **Q.** Did you believe that Michael McKenzie
 2 was submitting police reports about you and
 3 reporting you to the Lawyers Fund in
 4 retaliation for your declaration given in this
 5 case?
 03:34:18PM **MS. ZERNER:** Objection.
 6 **A.** Absolutely.
 7 **Q.** Did you feel intimidated by Mr.
 9 McKenzie's police report and reports to the
 10 Lawyers Fund?
 11 **A.** Well, it concerns me, you know.
 12 **Q.** And was Mr. McKenzie's police report
 13 and his report to the Lawyers Fund the reason
 14 you felt uncomfortable testifying in your first
 15 deposition in this case?
 16 **MS. ZERNER:** Objection.
 17 **A.** Yes.
 18 **Q.** Did you ever talk to Michael McKenzie
 19 directly about a police report or the Lawyers
 20 Fund report?
 21 **A.** No.
 22 **Q.** Mr. Gonzalez, if you could please look
 23 at tab 31 which Haley will put up on the screen
 24 for you.

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1 MR. NIKAS: I'll mark this as
 2 Exhibit 37, document bates stamp QE 29. It's a
 3 two-page document.
 4 (QE 29 two-page document was marked
 03:35:42PM 5 for identification as Exhibit No. 37.)

6 Q. Mr. Gonzalez, did you write this e-mail
 7 to Mr. Markham on November 17, 2021?
 8 A. Yes.
 9 Q. If you scroll down to the bottom, did
 03:35:59PM 10 you write that e-mail as well?

11 A. Yes.
 12 MR. NIKAS: You can take that down,
 13 Haley. If you could also put up, Haley,
 14 tab 42. I'll mark this tab Exhibit 38.

15 (Declaration of Michael McKenzie
 16 was marked for identification as Exhibit No.
 17 38.)

18 Q. It's a declaration of Michael McKenzie
 19 in this case that was signed November 6th 2018.

20 MR. NIKAS: If you could scroll
 21 down to paragraph 11, Haley -- sorry -- go to
 22 paragraph 10. There it is.

23 Q. Mr. Gonzalez, are you aware that in the
 24 August 2021 inspection of the studio my team

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1 and I collected approximately 6,000 pages of
 2 documents that had not been produced in the
 3 case. Are you aware of that?

4 A. No.
 5 Q. You testified earlier that Annette had
 6 access to the archives of the works, invoices,
 7 sales records, a whole host of information
 8 about McKenzie's sales and production of art
 9 work. Did I get that right?

10 A. She's got it. She knows where
 11 everything is. She's got it.
 12 Q. Now, under oath in this declaration,
 13 McKenzie wrote "throughout the first several
 14 years, AIA paid Indiana a million dollars
 15 although his royalty earnings fell short of
 16 that. AIA's records were kept mainly in the
 17 old fashioned way of typed and sometimes
 18 hand-written hard copies". Do you see that?

19 A. What about that?
 20 Q. Do you see that?
 21 A. I see it.
 22 Q. Isn't it correct that Michael McKenzie
 23 has an extensive electronic database of his art
 24 archive?

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EXHIBIT G - 53 211

1 MS. ZERNER: Objection.
 2 A. Yes.
 3 Q. Is -- is it a false statement under
 4 oath for McKenzie to say AIA's records were
 5 kept mainly in the old fashioned way of typed
 6 and sometimes hand-written hard copies?
 7 MS. ZERNER: Objection.
 8 A. Well, he has an accountant, you know.
 9 The bookkeeper comes in regularly. I think the
 10 books are kept with her and Annette takes --
 11 you know, I think she has her method of doing
 12 it, but I'm sure it's not an archaic method.
 13 I'm sure she's pretty much up on what she's
 14 doing.
 15 Q. And the records that were kept, were
 16 those records kept electronically?
 17 MS. ZERNER: Objection.
 18 A. Well, the collection, the archives, you
 19 know, where is it? You know, how much does it
 20 cost? You know, how many are there? She has
 21 all that.
 22 Q. And that's in McKenzie's possession?
 23 MS. ZERNER: Objection.
 24 A. I'm sorry. I didn't hear the question.

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1 Q. McKenzie or his employees possess those
 2 documents; is that right?

3 A. Well, actually, she has it. He
 4 wouldn't know how to do that, no.
 5 Q. Okay.
 6 A. He wouldn't know how to access the
 7 archives, no. He's pretty backwards.
 8 Q. He knows about the archives, right?
 9 A. Oh yeah, he knows about the archives.
 10 Q. Now, Mr. McKenzie in this declaration
 11 says that "with respect to those typed,
 12 hand-written hard copies" of his records, he
 13 says, "we never kept these records for two
 14 reasons; No. 1, as a business practice AIA does
 15 not store hard copies of business records for
 16 more than three years which is the current IRS
 17 requirement". Did you hear me read that, Mr.
 18 Gonzalez?

19 A. Yes, I heard that.
 20 Q. Is it a false statement to say that
 21 McKenzie or AIA does not store hard copies of
 22 business records for more than three years?
 23 MS. ZERNER: Objection.
 24 A. I don't know. Sorry. I just don't

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1 know the answer to that. All that stuff about
2 keeping hard copies and stuff, I mean, they --
3 they generated a bill of sale. It was an
4 invoice. You know, I'm sure they got all that.
5 You know.

6 Q. Did you see around --

7 A. You got to do a Certificate of
8 Authenticity too. You got to have all that
9 stuff together.

10 Q. Now, did you see the 6,000 pages or so
11 of records around Michael McKenzie's studio
12 when you worked there?

13 MS. ZERNER: Objection.

14 A. No. Fortunately no.

15 Q. Did you see stacks of documents around
16 the studio?

17 A. He had stacks of documents around the
18 studio.

19 Q. And did you understand those stacks of
20 documents to be business records?

21 A. No, I -- I thought they were just stuff
22 from the case. The business records -- the
23 bookkeeper took care of all that.

24 Q. You didn't know one way or the other

03:41:14PM
03:41:30PM
03:41:44PM
03:41:53PM
03:42:21PM
03:42:37PM
03:42:52PM
03:43:05PM

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1 someone would steal it. Therefore, the only
2 copies of AIA's records are in the possession
3 of the Estate, as Indiana kept everything,
4 including, upon information and belief, every
5 copy of the New York Times for the last
6 40 years."

7 Did you hear me read all that?

8 A. Yeah.

9 Q. Now, do you understand that in this
10 case, Morgan Art Foundation has accused
11 McKenzie of withholding significant numbers of
12 business records including the 6,000 pages we
13 found in his studio and the electronic archive
14 and the art work that he hid in the basement
15 and numerous other documents. Do you
16 understand that's an accusation in the case?

17 A. Yes.

18 Q. Do you understand that given what
19 Morgan had collected from McKenzie's studio in
20 August, that we have asserted that virtually
21 every word of this paragraph was a false
22 statement under oath, under penalties of
23 perjury, that Michael McKenzie made. Do you
24 understand that's an accusation in the case?

03:43:35PM
03:43:45PM
03:44:03PM
03:44:17PM
03:44:44PM
03:44:55PM
03:45:07PM
03:45:28PM

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1 how McKenzie kept his business records; is that
2 right?

3 A. I'm sure he kept business records. He
4 got to get them from the bookkeeper, you know.
5 He's pretty sloppy, but that's just him.

6 Q. Sure. So I'm just trying to understand
7 what you know from personal knowledge. Let me
8 read this paragraph to you and we'll see if you
9 know anything. If you don't, that's okay.

10 Mr. McKenzie says "AIA's records were
11 kept mainly in the old fashioned way of typed
12 and sometimes hand-written hard copies. We
13 never kept these records for two reasons; 1, as
14 a business practice, AIA does not store hard
15 copies of business records for more than
16 three years, which is the current IRS
17 requirement". Then there's a citation to a
18 website.

19 "And No. 2, AIA watched Indiana store
20 the copies of everything we handed him in a
21 file on the second floor of Star of Hope,
22 marked MM which he often showed to me.
23 Generally, I handed him both the check and
24 accounting, as he was afraid, rightly so, that

03:42:21PM
03:42:37PM
03:42:52PM
03:43:05PM

COBLEY COURT REPORTING, INC.

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1 A. Yes.

2 Q. Do you have any personal knowledge
3 about whether Michael McKenzie kept business
4 records, whether he was being truthful or lying
5 in this paragraph of his declaration -- do you
6 have any personal knowledge about that?

7 MS. ZERNER: Objection.

8 A. I think he had -- he has business
9 records. I know he has business records.

10 Q. How do you know he has business
11 records?

12 A. I've seen them. I've seen them.
13 Because -- because one of the lawyers kept
14 asking him for all the business records. You
15 know, it might have been John, John Markham.

16 Q. Now, Michael McKenzie said in this
17 declaration "AIA has spent six months searching
18 for documents relating to the proceedings
19 surrounding Indiana's Estate in Maine and New
20 York. This search has diverted AIA from its
21 publishing business. For many weeks the entire
22 staff was searching through boxes and checking
23 every file on a computer to see what
24 information we could find and provide."

03:44:44PM
03:44:55PM
03:45:07PM
03:45:28PM

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EXHIBIT G - 54²¹⁵

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1 Did you hear that?
 2 A. Yes.
 3 Q. Now, this was in 2018. That would have
 4 been before you joined McKenzie and AIA; is
 5 that right?
 6 A. Yes.
 7 Q. You joined in 2019; is that right?
 8 A. Right.
 9 Q. From your time forward, did you ever
 10 participate or see anyone at AIA participate in
 11 the collection of documents?
 12 MS. ZERNER: Objection.
 13 A. No.
 14 Q. Did McKenzie ever ask you to collect
 15 documents?
 16 A. No. No. He got all the documents from
 17 Simone.
 18 Q. Did you ever speak with the other AIA
 19 employees about their collection of documents?
 20 A. Well, I remember it was a subject of
 21 conversation, you know, because everyone was
 22 like wow, what are we going to do, because I
 23 think that Annette has everything on her
 24 computer, you know.

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1 Q. You think that what has everything on
 2 whose computer?
 3 A. Annette has a lot of the stuff on her
 4 computer.
 5 Q. Is that computer in the studio?
 6 A. No, it's in her home.
 7 Q. And that's -- by "everything", you mean
 8 the records, the business records --
 9 A. A lot of stuff because a lot of times
 10 I'd ask her for something and she would say,
 11 let's do it tomorrow. I'll bring my laptop or
 12 whatever so I can access it, you know.
 13 Q. Mr. Gonzalez, I have no more questions
 14 for you. I appreciate your time.

15 THE WITNESS: Thank you.
 16 MS. ZERNER: Mr. Falzone is up next
 17 if he has questions.
 18 MR. FALZONE: I have questions.
 19 Maybe 10, 15 questions tops.
 20 MS. ZERNER: Why don't we take a
 21 few minutes for the court reporter.
 22 (A brief recess was taken at 3:47
 23 p.m.)
 24 (Resumed at 4:01 p.m.)

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EXHIBIT G - 55 219

1 CROSS EXAMINATION
 2 BY MR. FALZONE:
 3 Q. I will be as briefly as I can, Mr.
 4 Gonzalez. I just want to quickly draw your
 5 attention back to, I believe, Exhibit 1. I'm
 6 going to try to share my screen here. See how
 7 that goes for me.
 8 Now, in this declaration, you recognize
 9 this? We talked about it a couple of times
 10 today.
 11 A. Yes, I recognize it.
 12 Q. In this declaration you talk about the
 13 mediation that took place in Portland, Maine,
 14 and I just want to ask you a couple of
 15 questions about that.
 16 Now, regarding the Term Sheet that came
 17 out of that mediation, do you recall when Mr.
 18 McKenzie first mentioned his feelings about the
 19 terms in that sheet to you?
 20 A. On the way home.
 21 Q. On the way home from?
 22 A. From Portland.
 23 Q. Okay. Do you remember what he
 24 specifically thought about those specific

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1 terms?
 2 A. He was very unhappy with the BRAT
 3 clause, and he didn't like the inventory clause
 4 because he said that it was going to make him a
 5 fortune.
 6 Q. Did he go into --
 7 A. Plus 725,000.
 8 Q. Did he go into any more specifics about
 9 what it was that he disliked about that
 10 language?
 11 A. Yeah, he didn't like the fact that it
 12 was being challenged at all, that it was
 13 perfectly a valid contract and he didn't
 14 understand why the -- the Estate would not
 15 authenticate it.
 16 Q. So when did he first say to you that he
 17 would refuse to abide by the terms of the
 18 contract?
 19 MS. ZERNER: Objection. That was
 20 not the testimony.
 21 Q. Paragraph -- let's see, paragraph 6;
 22 "in the months that followed the mediation,
 23 McKenzie told me numerous times that he did not
 24 like the terms of the Term Sheet and did not

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EXHIBIT G - 56 223

1 intend to abide by them.
 2 Do you recall writing that in the
 3 declaration, Mr. Gonzalez?
 4 A. Yes. Yes.
 04:03:43PM 5 Q. Okay. So if you recall, when was the
 6 first time that Mr. McKenzie told you that he
 7 would refuse to abide by those terms?
 8 A. When? Right away. Pretty much, you
 9 know, he was just unhappy. I thought we had
 04:04:05PM 10 done -- got a pretty good deal, and he was like
 11 complaining. That's what he does. He
 12 complains. That's all. He complained on the
 13 way home.
 14 He didn't like the stuff about the
 04:04:27PM 15 authentication, you know.
 16 Q. And if you had to guess, how many times
 17 would you say that he voiced his displeasure
 18 with the terms of the contract to you?
 19 A. Countless times, countless. About
 04:04:47PM 20 every day.
 21 Q. Okay. Now, were you made aware after
 22 the conclusion of the mediation of
 23 communications that Mr. McKenzie received from
 24 the other parties regarding the mediation?

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1 A. I think that all went to Mr. Simone.
 2 Q. So you weren't aware of any of the
 3 discussions that took place after the
 4 conclusion of the mediation?
 04:05:20PM 5 A. Mr. Simone was fighting back and forth
 6 about every clause there, back and forth.
 7 Q. And do you have any sense of what Mr.
 8 McKenzie's reaction to those communications
 9 were, these discussions with Mr. Simone?
 04:05:45PM 10 A. Yes, he was dead-set against it. He
 11 still is. Go ahead; give him a contract. See
 12 what he does. He won't accept it.
 13 All I did was get involved with the
 14 Binding Term Sheet, you know, because I got
 04:06:11PM 15 stuck with that. But the whole case is a
 16 Binding Term Sheet.
 17 MR. FALZONE: I have no further
 18 questions.
 19 MS. ZERNER: I just have a brief
 04:06:27PM 20 follow-up.
 21 REDIRECT EXAMINATION
 22 BY MS. ZERNER:
 23 Q. Mr. Gonzalez, when's the last time you
 24 spoke with Mr. McKenzie?

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1 A. I guess in August or September
 2 somewhere.
 3 Q. So you don't have any firsthand
 4 knowledge of what he's doing now for the
 5 business of American Image Art now?
 6 A. No.
 7 Q. You don't have any knowledge, firsthand
 8 knowledge, of American Image Art's operations
 9 since your employment ended on August 17th
 04:07:06PM 10 2021?
 11 A. The only thing I have is the stuff that
 12 Peggy told me.
 13 Q. I'm talking about your firsthand
 14 knowledge of what has been going on at American
 04:07:15PM 15 Image Art; you don't have any firsthand
 16 knowledge since August 17th 2021, correct?
 17 A. Correct.
 18 Q. And you don't have any knowledge, any
 19 firsthand knowledge, of what activities are
 04:07:25PM 20 occurring at Katonah since you left the
 21 property on October 2nd 2021, right?
 22 A. Correct.
 23 Q. And these photographs that we went
 24 through that you provided to Mr. Nikas of the

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1 art work at Mr. McKenzie's property, did you --
 2 do you still have your original native
 3 photographs of those that were taken on your
 4 phone?
 04:07:51PM 5 A. I have them in Drop Box, yeah.
 6 Q. Okay. And --
 7 A. It has the metadata.
 8 Q. What did you say?
 9 A. The ones in Drop Box have the metadata.
 04:08:06PM 10 Q. Great. And you can provide that to us?
 11 A. Sure.
 12 Q. And all of those photographs that you
 13 were shown today and you were asked about that
 14 art work being in the basement prior to May
 04:08:22PM 15 25th 2021, I just want to confirm; you didn't
 16 actually take those photographs until July or
 17 August 2021, right?
 18 A. I'm not sure of that. I think I took
 19 some of them sooner.
 04:08:36PM 20 Q. And we'll be able to see from the
 21 metadata you mentioned, right?
 22 A. Yes.
 23 Q. And --
 24 A. My dogs are getting upset.

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1 Q. Noted. So you also said when you were
 2 at the property on May 21st 2021 for the first
 3 -- this is the first visit by the Morgan
 4 parties, okay?

04:09:05PM 5 I heard you say you were asked
 6 questions by Mr. Nikas about how Morgan parties
 7 were not shown the art work in the basement and
 8 so the others must have forgotten to mention
 9 that, right?

04:09:20PM 10 A. Right.

11 Q. Well, you were there too, and you
 12 didn't mention it, right?

13 A. It wasn't for me to mention.

14 Q. Didn't you tell us that you would be
 15 hosting that day when all those parties were
 16 coming to Katonah?

17 A. Did I say what?

18 Q. Didn't you tell us that you would host
 19 the parties that came to Katonah that day in
 20 May?

21 A. Host the party?

22 Q. Yeah, that you would be the host at
 23 Katonah for Morgan and Don Zuretski and anyone
 24 else from Star of Hope?

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1 A. Oh, because he wasn't there in the
 2 morning, you know.

3 Q. Right, so you were handling it?

4 A. Yeah, but then he came. Then Annette
 5 came and they took it over, you know.

6 Q. You said you were going to be the one
 7 hosting, right?

8 A. To greet them. Greet them; not host
 9 them. Greet them.

10 Q. For example -- here, let me show you --

11 MS. ZERNER: I'm going to mark this
 12 quickly. I don't know what number we're on.
 13 We're up in the 30s.

14 MR. NIKAS: 39.

15 MS. ZERNER: That's next? 39?

16 MR. NIKAS: Yes.

17 (Text Messages were marked for
 18 identification as Exhibit No. 39.)

19 Q. So Mr. Gonzalez, you see here these are
 20 documents. See this bates number MRZ 00133.

21 Do you see that? Oh, sorry. Do you have a
 22 smaller screen? Do you see the number?

23 A. Yeah.

24 Q. Okay. So I'm just telling you our firm
 COPLEY COURT REPORTING, INC.

EXHIBIT G - 57 227

1 produced these in response to a subpoena in
 2 this case. These are some text messages
 3 between you and I.

4 And here on Monday, May 17th 2021 --
 5 you recall back in May you kept having to try
 6 and schedule a date for this visit for the
 7 settlement review of the art work. Do you
 8 recall that? Do you recall that?

9 A. Yes.

04:11:32PM 10 Q. You recall the date got changed a few
 11 times?

12 A. What?

13 Q. You recall that the date got changed a
 14 few times?

15 A. Right.

16 Q. Back on May 17th 2021 you were checking
 17 with me about when everyone was going to come
 18 and you say "are we having guests here
 19 tomorrow", right?

20 A. Right.

21 Q. And you recall you're talking about are
 22 we having, for instance, Don Zuretski, Morgan,
 23 anyone from the Estate or Star of Hope to
 24 visit, right?

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1 A. Right.

2 Q. And I say "will you be hosting",
 3 correct?

4 A. I wouldn't call it hosting.

5 Q. I'm just asking -- you see that I said
 6 that, right; "will you be hosting".

7 A. Yes. Yes.

8 Q. Then you said "yes, I'm so excited".

9 A. Still am.

10 Q. You're still excited?

11 A. Still excited.

12 Q. Yeah. But that was your response to me
 13 was "yes", right?

14 A. Okay.

15 Q. Your response was "yes", correct?

16 A. Yes, I was being facetious, yes.

17 Q. Well, you were being facetious about
 18 being excited, right?

19 A. Yes.

20 Q. But you were answering yes sincerely to
 21 my question of "will you be hosting", right?

22 A. I don't know.

23 Q. Oh, you don't know now?

24 A. I just don't know. I just don't know
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1 where you're going with all this.
 2 Q. I'm just asking if you were hosting.
 3 A. I said no.
 4 Q. Okay. And then further down, as we
 5 said, the visit occurred on May 25th 2021, and
 6 as part of this exhibit I'll include MRZ 136.

7 On May 26, 2021 you texted me at 8 or 9
 8 in the morning, and this is after the day after
 9 the visit by Morgan and Don Zuretski and Star
 10 of Hope, right?

11 A. Yes.
 12 Q. And you say "there was never an
 13 intention by Simon in an effort to settle.
 14 Apparently Simon is in complete control".

15 A. Right.
 16 Q. And you were upset after that visit,
 17 right?
 18 A. I mean, I wasn't upset. You know, I
 19 mean -- you know.
 20 Q. Oh, I apologize. Here, I meant to show
 21 you one other part. Let me ask you this; going
 22 back on page MRZ 135, on the actual day when
 23 everyone was there and you were hosting on May
 24 25th 2021, you texted me "sorry, but today was

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1 a travesty."
 2 Do you recall that?
 3 A. Yes.
 4 Q. Why did you say that?
 5 A. Because nobody was planning to make --
 6 to settle, neither side. There was nothing
 7 going on. They just wanted to come in and look
 8 at the inventory and that was it.
 9 Q. And Mr. Nikas asked you questions about
 10 your comments that Morgan was not going to get
 11 a straight inventory from McKenzie. And I
 12 believe you said something like in everything
 13 he did, meaning McKenzie, that indicated to you
 14 that they would not get a straight inventory,
 15 right?

16 A. Right. Right.
 17 Q. So Mr. McKenzie didn't explicitly say
 18 to you anything about not providing a straight
 19 or accurate inventory to the other side, did
 20 he?
 21 A. Yeah, he did.
 22 Q. He explicitly said that to you?
 23 A. Yeah.
 24 Q. Okay. And when did he say that?

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EXHIBIT G - 58²³¹

1 A. He said it on more than one occasion.
 2 Q. What did he say?
 3 A. He was just adamant about, you know,
 4 about the inventory and the authentication, you
 5 know. They were kind of like going together.
 6 Q. Are you talking about the Term Sheet
 7 now?
 8 A. Talking about everything in general,
 9 you know.
 10 Q. When it comes to the accounting
 11 records, you said that Mr. McKenzie has had an
 12 accountant to handle that, right?
 13 A. Yeah, his bookkeeper. She handles all
 14 the books. She got everything.
 15 Q. You do not have firsthand knowledge of
 16 how the accountant kept the recordkeeping,
 17 right?
 18 A. No, I have no knowledge whatsoever.
 19 Q. You don't have firsthand knowledge of
 20 what exactly is on Annette Vessecchia's
 21 computer?
 22 A. Well, I do -- I know what's on that
 23 computer; the archive and you know, I know. I
 24 kind of know.

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1 Q. You know everything that's on Annette
 2 Vessecchia's computer related to American Image
 3 Art?
 4 A. No, I don't. No, I don't.
 5 Q. And you were at American Image Art when
 6 the Estate went and filed in the Supreme Court
 7 in New York trying to obtain an injunction
 8 against American Image Art, right?
 9 A. Yes.
 10 Q. And you were aware -- did you attend
 11 the hearing?
 12 A. Me?
 13 Q. Did you attend the hearing on that
 14 motion for --
 15 A. No. No.
 16 Q. Okay. Were you aware after the fact
 17 that at that time in 2019, in the summer of
 18 2019, that the Supreme Court in New York denied
 19 the Estate's Petition for an injunction?
 20 A. Yes, I was aware of that.
 21 Q. You were aware that the Court ruled
 22 that American Image could continue to fabricate
 23 Indiana art work, right?
 24 A. Right.

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1 MR. NIKAS: Objection.
 2 A. According to the contracts.
 3 Q. You were aware of that Ruling?
 4 A. Yes.
 04:17:20PM 5 MR. NIKAS: Objection.
 6 A. But it has to do with which contract
 7 you're talking about.
 8 MS. ZERNER: I have no further
 9 questions.
 04:17:38PM 10 MR. NIKAS: Nor do I. Thank you,
 11 Mr. Gonzalez.
 12 MS. ZERNER: Mr. Falzone, do you
 13 have any more?
 14 MR. FALZONE: Nothing further.
 04:17:45PM 15 Thank you everyone.
 16 MS. ZERNER: Thank you so much,
 17 Julie and Mr. Gonzalez.
 18 (Whereupon the deposition concluded
 19 at 4:18 p.m.)
 20
 21
 22
 23
 24

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1 COMMONWEALTH OF MASSACHUSETTS.)
 2 SUFFOLK COUNTY, ss.)
 3
 4 I, Osvaldo Gonzalez, the witness
 5 herein, having read the foregoing testimony of
 6 the pages of this deposition, do hereby certify
 7 it to be a true and correct transcript, subject
 8 to the corrections, if any, shown on the
 9 attached page.
 10 oOo
 11
 12
 13
 14 Osvaldo Gonzalez
 15
 16
 17
 18 Subscribed and sworn to before me
 19 this _____ day of _____, 2022.
 20 _____.

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1 COMMONWEALTH OF MASSACHUSETTS)
 2 SUFFOLK COUNTY, ss.)
 3 I wish to make the following changes, for
 4 the following reasons:
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1 CERTIFICATE
 2 COMMONWEALTH OF MASSACHUSETTS)
 3 SUFFOLK COUNTY, ss.)
 4 I, JULIE B. STARR, a Professional
 5 Reporter and Notary Public within the
 6 Commonwealth of Massachusetts, do hereby
 7 certify:
 8 That Osvaldo Gonzalez, the witness
 9 whose testimony is hereinbefore set forth, was
 10 properly identified and duly sworn by me.
 11 That the foregoing proceedings were
 12 taken down by me stenographically via Zoom and
 13 thereafter transcribed under my direction and
 14 supervision, and that the within transcript is
 15 a true record of such proceedings.
 16 I further certify that I am not related
 17 to any of the parties to this action by blood
 18 or marriage, and that I am in no way
 19 interested in the cause or outcome of this
 20 action.
 21 IN WITNESS WHEREOF, I have hereunto set
 22 my hand this 12th day of January, 2022.
 23
 24 JULIE B. STARR
 Professional Reporter
 CSR
 My Commission Expires: March 29, 2024
 25
 26
 27
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